

107TH CONGRESS  
1ST SESSION

# H. R. 10

To provide for pension reform, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2001

Mr. PORTMAN (for himself, Mr. CARDIN, Mr. ARMEY, Mr. FROST, Mr. BOEHNER, Mr. ANDREWS, Mr. BLUNT, Mr. BENTSEN, Mr. GALLEGLY, Mr. MOORE, Mr. HOUGHTON, Mr. COYNE, Mr. SAM JOHNSON of Texas, Mr. POMEROY, Mrs. JOHNSON of Connecticut, Mr. MANZULLO, Mrs. MORELLA, Mr. WELLER, Mr. WYNN, Mr. AKIN, Mr. BACA, Mr. BACHUS, Mr. BAIRD, Mr. BAKER, Mr. BALDACCI, Mr. BALLENGER, Mr. BARCIA, Mr. BARRETT, Mr. BASS, Mr. BEREUTER, Ms. BERKLEY, Mrs. BIGGERT, Mr. BLAGOJEVICH, Mr. BLUMENAUER, Mr. BORSKI, Mr. BOSWELL, Mrs. BONO, Mr. BRADY of Texas, Mr. BRADY of Pennsylvania, Mr. BRYANT, Mr. BURR of North Carolina, Mr. BUYER, Mr. CALVERT, Mr. CAMP, Mr. CANTOR, Mrs. CAPITO, Mrs. CAPPs, Mr. CAPUANO, Mr. CHABOT, Mr. CLAY, Mr. CLEMENT, Mr. COBLE, Mr. COLLINS, Mr. CONDIT, Mr. COOKSEY, Mr. COX, Mr. CRANE, Mr. CRENSHAW, Mr. CROWLEY, Mr. CULBERSON, Mr. CUNNINGHAM, Mrs. JO ANN DAVIS of Virginia, Mr. DELAHUNT, Mr. DEMINT, Mr. DEUTSCH, Mr. DIAZ-BALART, Mr. DOOLEY of California, Mr. DOYLE, Mr. DREIER, Ms. DUNN, Mr. EHR-  
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Carolina, Mr. KANJORSKI, Mrs. KELLY, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Mr. KIND, Mr. KING, Mr. KINGSTON, Mr. KIRK, Mr. KLECZKA, Mr. KNOLLENBERG, Mr. KOLBE, Mr. KUCINICH, Mr. LAHOOD, Mr. LAMPSON, Mr. LANGEVIN, Mr. LANTOS, Mr. LARGENT, Mr. LARSEN of Washington, Mr. LARSON of Connecticut, Mr. LATHAM, Mr. LATOURETTE, Mr. LEACH, Mr. LEWIS of Kentucky, Mr. LOBIONDO,

Ms. LOFGREN, Mrs. LOWEY, Mr. LUCAS of Oklahoma, Mr. LUCAS of Kentucky, Mrs. MALONEY of New York, Mr. MALONEY of Connecticut, Mr. MASCARA, Mr. MATHESON, Mrs. MCCARTHY of New York, Ms. MCCARTHY of Missouri, Mr. MCCRERY, Mr. MCGOVERN, Mr. MCHUGH, Mr. MCINNIS, Mr. MCINTYRE, Mr. MCKEON, Mr. MCNULTY, Mr. MEEHAN, Mr. MENENDEZ, Ms. MILLENDER-MCDONALD, Mr. GARY MILLER of California, Mrs. MINK of Hawaii, Mr. MORAN of Kansas, Mrs. MYRICK, Mr. NADLER, Mr. NETHERCUTT, Mr. NEY, Mrs. NORTHUP, Mr. NORWOOD, Mr. NUSSLE, Mr. OSBORNE, Mr. OTTER, Mr. OXLEY, Mr. PALLONE, Mr. PASCRELL, Mr. PASTOR, Mr. PAUL, Mr. PAYNE, Mr. PENCE, Mr. PETERSON of Pennsylvania, Mr. PETRI, Mr. PLATTS, Ms. PRYCE of Ohio, Mr. PUTNAM, Mr. QUINN, Mr. RAHALL, Mr. RAMSTAD, Mr. REGULA, Mr. REYNOLDS, Mr. RILEY, Mr. ROEMER, Mr. ROGERS of Michigan, Mrs. ROUKEMA, Mr. ROTHMAN, Mr. ROYCE, Mr. RYAN of Wisconsin, Mr. RYUN of Kansas, Mr. SANDLIN, Mr. SAWYER, Mr. SAXTON, Ms. SCHAKOWSKY, Mr. SCARBOROUGH, Mr. SCHAFFER, Mr. SCHROCK, Mr. SESSIONS, Mr. SHADEGG, Mr. SHAW, Mr. SHAYS, Mr. SHERMAN, Mr. SHERWOOD, Mr. SHOWS, Mr. SIMMONS, Mr. SIMPSON, Mr. SKELTON, Mr. SMITH of Washington, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mr. SNYDER, Mr. SOUDER, Mr. SPRATT, Mr. STEARNS, Mr. STRICKLAND, Mr. STUPAK, Mr. SUNUNU, Mr. SWEENEY, Mr. TANCREDO, Mr. TANNER, Mrs. TAUSCHER, Mr. TAYLOR of North Carolina, Mr. TERRY, Mr. THOMPSON of Mississippi, Mr. THOMPSON of California, Mr. THUNE, Mrs. THURMAN, Mr. TIBERI, Mr. TRAFICANT, Mr. TOOMEY, Mr. TURNER, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. UPTON, Mr. WALDEN of Oregon, Mr. WALSH, Mr. WAMP, Mr. WATKINS, Mr. WATTS of Oklahoma, Mr. WEINER, Mr. WELDON of Florida, Mr. WHITFIELD, Mr. WOLF, Ms. WOOLSEY, Mr. WU, and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide for pension reform, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CON-**  
 2 **TENTS.**

3 (a) SHORT TITLE.—This Act may be cited as the  
 4 “Comprehensive Retirement Security and Pension Reform  
 5 Act of 2001”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-  
 7 wise expressly provided, whenever in this Act an amend-  
 8 ment or repeal is expressed in terms of an amendment  
 9 to, or repeal of, a section or other provision, the reference  
 10 shall be considered to be made to a section or other provi-  
 11 sion of the Internal Revenue Code of 1986.

12 (c) TABLE OF CONTENTS.—The table of contents of  
 13 this Act is as follows:

Sec. 1. Short title; references; table of contents.

**TITLE I—INDIVIDUAL RETIREMENT ACCOUNT PROVISIONS**

Sec. 101. Modification of IRA contribution limits.

**TITLE II—EXPANDING COVERAGE**

Sec. 201. Increase in benefit and contribution limits.

Sec. 202. Plan loans for subchapter S owners, partners, and sole proprietors.

Sec. 203. Modification of top-heavy rules.

Sec. 204. Elective deferrals not taken into account for purposes of deduction limits.

Sec. 205. Repeal of coordination requirements for deferred compensation plans of State and local governments and tax-exempt organizations.

Sec. 206. Elimination of user fee for requests to IRS regarding pension plans.

Sec. 207. Deduction limits.

Sec. 208. Option to treat elective deferrals as after-tax contributions.

**TITLE III—ENHANCING FAIRNESS FOR WOMEN**

Sec. 301. Catch-up contributions for individuals age 50 or over.

Sec. 302. Equitable treatment for contributions of employees to defined contribution plans.

Sec. 303. Faster vesting of certain employer matching contributions.

Sec. 304. Simplify and update the minimum distribution rules.

Sec. 305. Clarification of tax treatment of division of section 457 plan benefits upon divorce.

- Sec. 306. Modification of safe harbor relief for hardship withdrawals from cash or deferred arrangements.

#### TITLE IV—INCREASING PORTABILITY FOR PARTICIPANTS

- Sec. 401. Rollovers allowed among various types of plans.  
 Sec. 402. Rollovers of IRAs into workplace retirement plans.  
 Sec. 403. Rollovers of after-tax contributions.  
 Sec. 404. Hardship exception to 60-day rule.  
 Sec. 405. Treatment of forms of distribution.  
 Sec. 406. Rationalization of restrictions on distributions.  
 Sec. 407. Purchase of service credit in governmental defined benefit plans.  
 Sec. 408. Employers may disregard rollovers for purposes of cash-out amounts.  
 Sec. 409. Minimum distribution and inclusion requirements for section 457 plans.

#### TITLE V—STRENGTHENING PENSION SECURITY AND ENFORCEMENT

- Sec. 501. Repeal of percent of current liability funding limit.  
 Sec. 502. Maximum contribution deduction rules modified and applied to all defined benefit plans.  
 Sec. 503. Excise tax relief for sound pension funding.  
 Sec. 504. Excise tax on failure to provide notice by defined benefit plans significantly reducing future benefit accruals.  
 Sec. 505. Treatment of multiemployer plans under section 415.  
 Sec. 506. Protection of investment of employee contributions to 401(k) plans.  
 Sec. 507. Periodic pension benefits statements.  
 Sec. 508. Prohibited allocations of stock in S corporation ESOP.

#### TITLE VI—REDUCING REGULATORY BURDENS

- Sec. 601. Modification of timing of plan valuations.  
 Sec. 602. ESOP dividends may be reinvested without loss of dividend deduction.  
 Sec. 603. Repeal of transition rule relating to certain highly compensated employees.  
 Sec. 604. Employees of tax-exempt entities.  
 Sec. 605. Clarification of treatment of employer-provided retirement advice.  
 Sec. 606. Reporting simplification.  
 Sec. 607. Improvement of employee plans compliance resolution system.  
 Sec. 608. Repeal of the multiple use test.  
 Sec. 609. Flexibility in nondiscrimination, coverage, and line of business rules.  
 Sec. 610. Extension to all governmental plans of moratorium on application of certain nondiscrimination rules applicable to State and local plans.  
 Sec. 611. Notice and consent period regarding distributions.  
 Sec. 612. Annual report dissemination.  
 Sec. 613. Technical corrections to SAVER Act.

#### TITLE VII—OTHER ERISA PROVISIONS

- Sec. 701. Missing participants.  
 Sec. 702. Reduced PBGC premium for new plans of small employers.  
 Sec. 703. Reduction of additional PBGC premium for new and small plans.  
 Sec. 704. Authorization for PBGC to pay interest on premium overpayment refunds.

Sec. 705. Substantial owner benefits in terminated plans.  
 Sec. 706. Civil penalties for breach of fiduciary responsibility.  
 Sec. 707. Benefit suspension notice.

#### TITLE VIII—PLAN AMENDMENTS

Sec. 801. Provisions relating to plan amendments.

## **TITLE I—INDIVIDUAL RETIREMENT ACCOUNTS**

### **SEC. 101. MODIFICATION OF IRA CONTRIBUTION LIMITS.**

(a) INCREASE IN CONTRIBUTION LIMIT.—

(1) IN GENERAL.—Paragraph (1)(A) of section 219(b) (relating to maximum amount of deduction) is amended by striking “\$2,000” and inserting “the deductible amount”.

(2) DEDUCTIBLE AMOUNT.—Section 219(b) is amended by adding at the end the following new paragraph:

“(5) DEDUCTIBLE AMOUNT.—For purposes of paragraph (1)(A)—

“(A) IN GENERAL.—The deductible amount shall be determined in accordance with the following table:

<b>“For taxable years beginning in:</b>	<b>The deductible amount is:</b>
2001 .....	\$3,000
2002 .....	\$4,000
2003 and thereafter .....	\$5,000.

“(B) CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS 50 OR OLDER.—In the case of an individual who has attained the age of 50 before

1 the close of the taxable year, the deductible  
2 amount for taxable years beginning in 2001 or  
3 2002 shall be \$5,000.

4 “(C) COST-OF-LIVING ADJUSTMENT.—

5 “(i) IN GENERAL.—In the case of any  
6 taxable year beginning in a calendar year  
7 after 2003, the \$5,000 amount under sub-  
8 paragraph (A) shall be increased by an  
9 amount equal to—

10 “(I) such dollar amount, multi-  
11 plied by

12 “(II) the cost-of-living adjust-  
13 ment determined under section  
14 1(f)(3) for the calendar year in which  
15 the taxable year begins, determined by  
16 substituting ‘calendar year 2002’ for  
17 ‘calendar year 1992’ in subparagraph  
18 (B) thereof.

19 “(ii) ROUNDING RULES.—If any  
20 amount after adjustment under clause (i)  
21 is not a multiple of \$500, such amount  
22 shall be rounded to the next lower multiple  
23 of \$500.”.

24 (b) CONFORMING AMENDMENTS.—

1           (1) Section 408(a)(1) is amended by striking  
 2           “in excess of \$2,000 on behalf of any individual”  
 3           and inserting “on behalf of any individual in excess  
 4           of the amount in effect for such taxable year under  
 5           section 219(b)(1)(A)”.

6           (2) Section 408(b)(2)(B) is amended by strik-  
 7           ing “\$2,000” and inserting “the dollar amount in  
 8           effect under section 219(b)(1)(A)”.

9           (3) Section 408(b) is amended by striking  
 10          “\$2,000” in the matter following paragraph (4) and  
 11          inserting “the dollar amount in effect under section  
 12          219(b)(1)(A)”.

13          (4) Section 408(j) is amended by striking  
 14          “\$2,000”.

15          (5) Section 408(p)(8) is amended by striking  
 16          “\$2,000” and inserting “the dollar amount in effect  
 17          under section 219(b)(1)(A)”.

18          (c) EFFECTIVE DATE.—The amendments made by  
 19          this section shall apply to taxable years beginning after  
 20          December 31, 2000.

## 21                   **TITLE II—EXPANDING** 22                   **COVERAGE**

### 23   **SEC. 201. INCREASE IN BENEFIT AND CONTRIBUTION** 24                   **LIMITS.**

25          (a) DEFINED BENEFIT PLANS.—

1 (1) DOLLAR LIMIT.—

2 (A) Subparagraph (A) of section 415(b)(1)  
3 (relating to limitation for defined benefit plans)  
4 is amended by striking “\$90,000” and inserting  
5 “\$160,000”.

6 (B) Subparagraphs (C) and (D) of section  
7 415(b)(2) are each amended by striking  
8 “\$90,000” each place it appears in the head-  
9 ings and the text and inserting “\$160,000”.

10 (C) Paragraph (7) of section 415(b) (relat-  
11 ing to benefits under certain collectively bar-  
12 gained plans) is amended by striking “the  
13 greater of \$68,212 or one-half the amount oth-  
14 erwise applicable for such year under paragraph  
15 (1)(A) for ‘\$90,000’” and inserting “one-half  
16 the amount otherwise applicable for such year  
17 under paragraph (1)(A) for ‘\$160,000’”.

18 (2) LIMIT REDUCED WHEN BENEFIT BEGINS  
19 BEFORE AGE 62.—Subparagraph (C) of section  
20 415(b)(2) is amended by striking “the social security  
21 retirement age” each place it appears in the heading  
22 and text and inserting “age 62” and by striking the  
23 second sentence.

24 (3) LIMIT INCREASED WHEN BENEFIT BEGINS  
25 AFTER AGE 65.—Subparagraph (D) of section



1       415(b)(2) is amended by striking “the social security  
2       retirement age” each place it appears in the heading  
3       and text and inserting “age 65”.

4           (4)   COST-OF-LIVING   ADJUSTMENTS.—Sub-  
5       section (d) of section 415 (related to cost-of-living  
6       adjustments) is amended—

7                   (A) by striking “\$90,000” in paragraph  
8       (1)(A) and inserting “\$160,000”; and

9                   (B) in paragraph (3)(A)—

10                          (i) by striking “\$90,000” in the head-  
11       ing and inserting “\$160,000”; and

12                          (ii) by striking “October 1, 1986” and  
13       inserting “July 1, 2000”.

14       (5) CONFORMING AMENDMENTS.—

15           (A) Section 415(b)(2) is amended by strik-  
16       ing subparagraph (F).

17           (B) Section 415(b)(9) is amended to read  
18       as follows:

19                   “(9) SPECIAL RULE FOR COMMERCIAL AIR-  
20       LINE PILOTS.—

21                           “(A) IN GENERAL.—Except as pro-  
22       vided in subparagraph (B), in the case of  
23       any participant who is a commercial airline  
24       pilot, if, as of the time of the participant’s  
25       retirement, regulations prescribed by the

1 Federal Aviation Administration require an  
 2 individual to separate from service as a  
 3 commercial airline pilot after attaining any  
 4 age occurring on or after age 60 and be-  
 5 fore age 62, paragraph (2)(C) shall be ap-  
 6 plied by substituting such age for age 62.

7 “(B) INDIVIDUALS WHO SEPARATE  
 8 FROM SERVICE BEFORE AGE 60.—If a par-  
 9 ticipant described in subparagraph (A)  
 10 separates from service before age 60, the  
 11 rules of paragraph (2)(C) shall apply.”.

12 (C) Section 415(b)(10)(C)(i) is amended  
 13 by striking “applied without regard to para-  
 14 graph (2)(F)”.

15 (b) DEFINED CONTRIBUTION PLANS.—

16 (1) DOLLAR LIMIT.—Subparagraph (A) of sec-  
 17 tion 415(c)(1) (relating to limitation for defined con-  
 18 tribution plans) is amended by striking “\$30,000”  
 19 and inserting “\$40,000”.

20 (2) COST-OF-LIVING ADJUSTMENTS.—Sub-  
 21 section (d) of section 415 (related to cost-of-living  
 22 adjustments) is amended—

23 (A) by striking “\$30,000” in paragraph  
 24 (1)(C) and inserting “\$40,000”; and

25 (B) in paragraph (3)(D)—

1 (i) by striking “\$30,000” in the head-  
 2 ing and inserting “\$40,000”; and

3 (ii) by striking “October 1, 1993” and  
 4 inserting “July 1, 2000”.

5 (c) QUALIFIED TRUSTS.—

6 (1) COMPENSATION LIMIT.—Sections  
 7 401(a)(17), 404(l), 408(k), and 505(b)(7) are each  
 8 amended by striking “\$150,000” each place it ap-  
 9 pears and inserting “\$200,000”.

10 (2) BASE PERIOD AND ROUNDING OF COST-OF-  
 11 LIVING ADJUSTMENT.—Subparagraph (B) of section  
 12 401(a)(17) is amended—

13 (A) by striking “October 1, 1993” and in-  
 14 serting “July 1, 2000”; and

15 (B) by striking “\$10,000” both places it  
 16 appears and inserting “\$5,000”.

17 (d) ELECTIVE DEFERRALS.—

18 (1) IN GENERAL.—Paragraph (1) of section  
 19 402(g) (relating to limitation on exclusion for elec-  
 20 tive deferrals) is amended to read as follows:

21 “(1) IN GENERAL.—

22 “(A) LIMITATION.—Notwithstanding sub-  
 23 sections (e)(3) and (h)(1)(B), the elective defer-  
 24 rals of any individual for any taxable year shall  
 25 be included in such individual’s gross income to

1 the extent the amount of such deferrals for the  
 2 taxable year exceeds the applicable dollar  
 3 amount.

4 “(B) APPLICABLE DOLLAR AMOUNT.—For  
 5 purposes of subparagraph (A), the applicable  
 6 dollar amount shall be the amount determined  
 7 in accordance with the following table:

<b>“For taxable years beginning in calendar year:</b>	<b>The applicable dollar amount:</b>
2001 .....	\$11,000
2002 .....	\$12,000
2003 .....	\$13,000
2004 .....	\$14,000
2005 or thereafter .....	\$15,000.”.

8 (2) COST-OF-LIVING ADJUSTMENT.—Paragraph  
 9 (5) of section 402(g) is amended to read as follows:

10 “(5) COST-OF-LIVING ADJUSTMENT.—In the  
 11 case of taxable years beginning after December 31,  
 12 2005, the Secretary shall adjust the \$15,000  
 13 amount under paragraph (1)(B) at the same time  
 14 and in the same manner as under section 415(d),  
 15 except that the base period shall be the calendar  
 16 quarter beginning July 1, 2004, and any increase  
 17 under this paragraph which is not a multiple of  
 18 \$500 shall be rounded to the next lowest multiple of  
 19 \$500.”.

20 (3) CONFORMING AMENDMENTS.—

1           (A) Section 402(g) (relating to limitation  
 2           on exclusion for elective deferrals), as amended  
 3           by paragraphs (1) and (2), is further amended  
 4           by striking paragraph (4) and redesignating  
 5           paragraphs (5), (6), (7), (8), and (9) as para-  
 6           graphs (4), (5), (6), (7), and (8), respectively.

7           (B) Paragraph (2) of section 457(c) is  
 8           amended by striking “402(g)(8)(A)(iii)” and in-  
 9           serting “402(g)(7)(A)(iii)”.

10          (C) Clause (iii) of section 501(c)(18)(D) is  
 11          amended by striking “(other than paragraph  
 12          (4) thereof)”.

13          (e) DEFERRED COMPENSATION PLANS OF STATE  
 14          AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANI-  
 15          ZATIONS.—

16          (1) IN GENERAL.—Section 457 (relating to de-  
 17          ferred compensation plans of State and local govern-  
 18          ments and tax-exempt organizations) is amended—

19               (A) in subsections (b)(2)(A) and (c)(1) by  
 20               striking “\$7,500” each place it appears and in-  
 21               serting “the applicable dollar amount”; and

22               (B) in subsection (b)(3)(A) by striking  
 23               “\$15,000” and inserting “twice the dollar  
 24               amount in effect under subsection (b)(2)(A)”.

(2) APPLICABLE DOLLAR AMOUNT; COST-OF-LIVING ADJUSTMENT.—Paragraph (15) of section 457(e) is amended to read as follows:

“(15) APPLICABLE DOLLAR AMOUNT.—

“(A) IN GENERAL.—The applicable dollar amount shall be the amount determined in accordance with the following table:

<b>“For taxable years beginning in calendar year:</b>	<b>The applicable dollar amount:</b>
2001 .....	\$11,000
2002 .....	\$12,000
2003 .....	\$13,000
2004 .....	\$14,000
2005 or thereafter .....	\$15,000.

“(B) COST-OF-LIVING ADJUSTMENTS.—In the case of taxable years beginning after December 31, 2005, the Secretary shall adjust the \$15,000 amount under subparagraph (A) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter beginning July 1, 2004, and any increase under this paragraph which is not a multiple of \$500 shall be rounded to the next lowest multiple of \$500.”.

(f) SIMPLE RETIREMENT ACCOUNTS.—

(1) LIMITATION.—Clause (ii) of section 408(p)(2)(A) (relating to general rule for qualified salary reduction arrangement) is amended by strik-

1       ing “\$6,000” and inserting “the applicable dollar  
2       amount”.

3               (2) APPLICABLE DOLLAR AMOUNT.—Subpara-  
4       graph (E) of 408(p)(2) is amended to read as fol-  
5       lows:

6                       “(E) APPLICABLE DOLLAR AMOUNT; COST-  
7       OF-LIVING ADJUSTMENT.—

8                       “(i) IN GENERAL.—For purposes of  
9       subparagraph (A)(ii), the applicable dollar  
10       amount shall be the amount determined in  
11       accordance with the following table:

<b>“For taxable years beginning in calendar year:</b>	<b>The applicable dollar amount:</b>
2001 .....	\$7,000
2002 .....	\$8,000
2003 .....	\$9,000
2004 or thereafter .....	\$10,000.

12                      “(ii) COST-OF-LIVING ADJUSTMENT.—  
13       In the case of a year beginning after De-  
14       cember 31, 2004, the Secretary shall ad-  
15       just the \$10,000 amount under clause (i)  
16       at the same time and in the same manner  
17       as under section 415(d), except that the  
18       base period taken into account shall be the  
19       calendar quarter beginning July 1, 2003,  
20       and any increase under this subparagraph  
21       which is not a multiple of \$500 shall be

1 rounded to the next lower multiple of  
2 \$500.”.

3 (3) CONFORMING AMENDMENTS.—

4 (A) Subclause (I) of section  
5 401(k)(11)(B)(i) is amended by striking  
6 “\$6,000” and inserting “the amount in effect  
7 under section 408(p)(2)(A)(ii)”.

8 (B) Section 401(k)(11) is amended by  
9 striking subparagraph (E).

10 (g) ROUNDING RULE RELATING TO DEFINED BEN-  
11 EFIT PLANS AND DEFINED CONTRIBUTION PLANS.—

12 Paragraph (4) of section 415(d) is amended to read as  
13 follows:

14 “(4) ROUNDING.—

15 “(A) \$160,000 AMOUNT.—Any increase  
16 under subparagraph (A) of paragraph (1) which  
17 is not a multiple of \$5,000 shall be rounded to  
18 the next lowest multiple of \$5,000.

19 “(B) \$40,000 AMOUNT.—Any increase  
20 under subparagraph (C) of paragraph (1) which  
21 is not a multiple of \$1,000 shall be rounded to  
22 the next lowest multiple of \$1,000.”.

23 (h) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to years beginning after December  
25 31, 2000.



1 **SEC. 202. PLAN LOANS FOR SUBCHAPTER S OWNERS, PART-**  
2 **NERS, AND SOLE PROPRIETORS.**

3 (a) AMENDMENT OF INTERNAL REVENUE CODE.—  
4 Subparagraph (B) of section 4975(f)(6) (relating to ex-  
5 emptions not to apply to certain transactions) is amended  
6 by adding at the end the following new clause:

7 “(iii) LOAN EXCEPTION.—For pur-  
8 poses of subparagraph (A)(i), the term  
9 ‘owner-employee’ shall only include a per-  
10 son described in subclause (II) or (III) of  
11 clause (i).”.

12 (b) AMENDMENT OF ERISA.—Section 408(d)(2) of  
13 the Employee Retirement Income Security Act of 1974  
14 (29 U.S.C. 1108(d)(2)) is amended by adding at the end  
15 the following new subparagraph:

16 “(C) For purposes of paragraph (1)(A), the term  
17 ‘owner-employee’ shall only include a person described in  
18 clause (ii) or (iii) of subparagraph (A).”.

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to years beginning after December  
21 31, 2001.

22 **SEC. 203. MODIFICATION OF TOP-HEAVY RULES.**

23 (a) SIMPLIFICATION OF DEFINITION OF KEY EM-  
24 PLOYEE.—

25 (1) IN GENERAL.—Section 416(i)(1)(A) (defin-  
26 ing key employee) is amended—

1 (A) by striking “or any of the 4 preceding  
2 plan years” in the matter preceding clause (i);

3 (B) by striking clause (i) and inserting the  
4 following:

5 “(i) an officer of the employer having  
6 an annual compensation greater than  
7 \$150,000,”;

8 (C) by striking clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively; and

11 (D) by striking the second sentence in the  
12 matter following clause (iii), as redesignated by  
13 subparagraph (C).

14 (2) CONFORMING AMENDMENT.—Section  
15 416(i)(1)(B)(iii) is amended by striking “and sub-  
16 paragraph (A)(ii)”.

17 (b) MATCHING CONTRIBUTIONS TAKEN INTO AC-  
18 COUNT FOR MINIMUM CONTRIBUTION REQUIREMENTS.—  
19 Section 416(c)(2)(A) (relating to defined contribution  
20 plans) is amended by adding at the end the following:  
21 “Employer matching contributions (as defined in section  
22 401(m)(4)(A)) shall be taken into account for purposes  
23 of this subparagraph.”.

24 (c) DISTRIBUTIONS DURING LAST YEAR BEFORE  
25 DETERMINATION DATE TAKEN INTO ACCOUNT.—

1           (1) IN GENERAL.—Paragraph (3) of section  
2   416(g) is amended to read as follows:

3           “(3) DISTRIBUTIONS DURING LAST YEAR BE-  
4   FORE DETERMINATION DATE TAKEN INTO AC-  
5   COUNT.—

6           “(A) IN GENERAL.—For purposes of  
7   determining—

8           “(i) the present value of the cumu-  
9   lative accrued benefit for any employee, or

10          “(ii) the amount of the account of any  
11   employee,

12   such present value or amount shall be increased  
13   by the aggregate distributions made with re-  
14   spect to such employee under the plan during  
15   the 1-year period ending on the determination  
16   date. The preceding sentence shall also apply to  
17   distributions under a terminated plan which if  
18   it had not been terminated would have been re-  
19   quired to be included in an aggregation group.

20          “(B) 5-YEAR PERIOD IN CASE OF IN-SERV-  
21   ICE DISTRIBUTION.—In the case of any dis-  
22   tribution made for a reason other than separa-  
23   tion from service, death, or disability, subpara-  
24   graph (A) shall be applied by substituting ‘5-  
25   year period’ for ‘1-year period’.”.

1 (2) BENEFITS NOT TAKEN INTO ACCOUNT.—

2 Subparagraph (E) of section 416(g)(4) is  
3 amended—

4 (A) by striking “LAST 5 YEARS” in the  
5 heading and inserting “LAST YEAR BEFORE DE-  
6 TERMINATION DATE”; and

7 (B) by striking “5-year period” and insert-  
8 ing “1-year period”.

9 (d) DEFINITION OF TOP-HEAVY PLANS.—Paragraph  
10 (4) of section 416(g) (relating to other special rules for  
11 top-heavy plans) is amended by adding at the end the fol-  
12 lowing new subparagraph:

13 “(H) CASH OR DEFERRED ARRANGEMENTS  
14 USING ALTERNATIVE METHODS OF MEETING  
15 NONDISCRIMINATION REQUIREMENTS.—The  
16 term ‘top-heavy plan’ shall not include a plan  
17 which consists solely of—

18 “(i) a cash or deferred arrangement  
19 which meets the requirements of section  
20 401(k)(12), and

21 “(ii) matching contributions with re-  
22 spect to which the requirements of section  
23 401(m)(11) are met.

24 If, but for this subparagraph, a plan would be  
25 treated as a top-heavy plan because it is a

1 member of an aggregation group which is a top-  
 2 heavy group, contributions under the plan may  
 3 be taken into account in determining whether  
 4 any other plan in the group meets the require-  
 5 ments of subsection (c)(2).”.

6 (e) FROZEN PLAN EXEMPT FROM MINIMUM BEN-  
 7 EFIT REQUIREMENT.—Subparagraph (C) of section  
 8 416(c)(1) (relating to defined benefit plans) is amended—

9 (A) by striking “clause (ii)” in clause (i)  
 10 and inserting “clause (ii) or (iii)”; and

11 (B) by adding at the end the following:

12 “(iii) EXCEPTION FOR FROZEN  
 13 PLAN.—For purposes of determining an  
 14 employee’s years of service with the em-  
 15 ployer, any service with the employer shall  
 16 be disregarded to the extent that such  
 17 service occurs during a plan year when the  
 18 plan benefits (within the meaning of sec-  
 19 tion 410(b)) no key employee or former  
 20 key employee.”.

21 (f) ELIMINATION OF FAMILY ATTRIBUTION.—Sec-  
 22 tion 416(i)(1)(B) (defining 5-percent owner) is amended  
 23 by adding at the end the following new clause:

24 “(iv) FAMILY ATTRIBUTION DIS-  
 25 REGARDED.—Solely for purposes of apply-

1           ing this paragraph (and not for purposes  
 2           of any provision of this title which incor-  
 3           porates by reference the definition of a key  
 4           employee or 5-percent owner under this  
 5           paragraph), section 318 shall be applied  
 6           without regard to subsection (a)(1) thereof  
 7           in determining whether any person is a 5-  
 8           percent owner.”.

9           (g) EFFECTIVE DATE.—The amendments made by  
 10          this section shall apply to years beginning after December  
 11          31, 2001.

12       **SEC. 204. ELECTIVE DEFERRALS NOT TAKEN INTO AC-**  
 13                               **COUNT FOR PURPOSES OF DEDUCTION LIM-**  
 14                               **ITS.**

15           (a) IN GENERAL.—Section 404 (relating to deduction  
 16          for contributions of an employer to an employees’ trust  
 17          or annuity plan and compensation under a deferred pay-  
 18          ment plan) is amended by adding at the end the following  
 19          new subsection:

20           “(n) ELECTIVE DEFERRALS NOT TAKEN INTO AC-  
 21          COUNT FOR PURPOSES OF DEDUCTION LIMITS.—Elective  
 22          deferrals (as defined in section 402(g)(3)) shall not be  
 23          subject to any limitation contained in paragraph (3), (7),  
 24          or (9) of subsection (a), and such elective deferrals shall

1 not be taken into account in applying any such limitation  
 2 to any other contributions.”.

3 (b) EFFECTIVE DATE.—The amendment made by  
 4 this section shall apply to years beginning after December  
 5 31, 2001.

6 **SEC. 205. REPEAL OF COORDINATION REQUIREMENTS FOR**  
 7 **DEFERRED COMPENSATION PLANS OF STATE**  
 8 **AND LOCAL GOVERNMENTS AND TAX-EX-**  
 9 **EMPT ORGANIZATIONS.**

10 (a) IN GENERAL.—Subsection (c) of section 457 (re-  
 11 lating to deferred compensation plans of State and local  
 12 governments and tax-exempt organizations), as amended  
 13 by section 201, is amended to read as follows:

14 “(c) LIMITATION.—The maximum amount of the  
 15 compensation of any one individual which may be deferred  
 16 under subsection (a) during any taxable year shall not ex-  
 17 ceed the amount in effect under subsection (b)(2)(A) (as  
 18 modified by any adjustment provided under subsection  
 19 (b)(3)).”.

20 (b) EFFECTIVE DATE.—The amendment made by  
 21 subsection (a) shall apply to years beginning after Decem-  
 22 ber 31, 2001.

1 **SEC. 206. ELIMINATION OF USER FEE FOR REQUESTS TO**  
2 **IRS REGARDING PENSION PLANS.**

3 (a) **ELIMINATION OF CERTAIN USER FEES.**—The  
4 Secretary of the Treasury or the Secretary’s delegate shall  
5 not require payment of user fees under the program estab-  
6 lished under section 10511 of the Revenue Act of 1987  
7 for requests to the Internal Revenue Service for deter-  
8 mination letters with respect to the qualified status of a  
9 pension benefit plan maintained solely by one or more eli-  
10 gible employers or any trust which is part of the plan.  
11 The preceding sentence shall not apply to any request—

12 (1) made after the later of—

13 (A) the fifth plan year the pension benefit  
14 plan is in existence; or

15 (B) the end of any remedial amendment  
16 period with respect to the plan beginning within  
17 the first 5 plan years; or

18 (2) made by the sponsor of any prototype or  
19 similar plan which the sponsor intends to market to  
20 participating employers.

21 (b) **PENSION BENEFIT PLAN.**—For purposes of this  
22 section, the term “pension benefit plan” means a pension,  
23 profit-sharing, stock bonus, annuity, or employee stock  
24 ownership plan.

25 (c) **ELIGIBLE EMPLOYER.**—For purposes of this sec-  
26 tion, the term “eligible employer” has the same meaning



1 given such term in section 408(p)(2)(C)(i)(I) of the Inter-  
 2 nal Revenue Code of 1986. The determination of whether  
 3 an employer is an eligible employer under this section shall  
 4 be made as of the date of the request described in sub-  
 5 section (a).

6 (d) DETERMINATION OF AVERAGE FEES  
 7 CHARGED.—For purposes of any determination of average  
 8 fees charged, any request to which subsection (a) applies  
 9 shall not be taken into account.

10 (e) EFFECTIVE DATE.—The provisions of this section  
 11 shall apply with respect to requests made after December  
 12 31, 2001.

13 **SEC. 207. DEDUCTION LIMITS.**

14 (a) STOCK BONUS AND PROFIT SHARING TRUSTS.—

15 (1) IN GENERAL.—Subclause (I) of section  
 16 404(a)(3)(A)(i) (relating to stock bonus and profit  
 17 sharing trusts) is amended by striking “15 percent”  
 18 and inserting “20 percent”.

19 (2) CONFORMING AMENDMENT.—Subparagraph  
 20 (C) of section 404(h)(1) is amended by striking “15  
 21 percent” each place it appears and inserting “20  
 22 percent”.

23 (b) COMPENSATION.—

1           (1) IN GENERAL.—Section 404(a) (relating to  
2       general rule) is amended by adding at the end the  
3       following:

4           “(12) DEFINITION OF COMPENSATION.—For  
5       purposes of paragraphs (3), (7), (8), and (9), the  
6       term ‘compensation otherwise paid or accrued dur-  
7       ing the taxable year’ shall include amounts treated  
8       as ‘participant’s compensation’ under subparagraph  
9       (C) or (D) of section 415(c)(3).”.

10          (2) CONFORMING AMENDMENTS.—

11               (A) Subparagraph (B) of section 404(a)(3)  
12       is amended by striking the last sentence there-  
13       of.

14               (B) Clause (i) of section 4972(c)(6)(B) is  
15       amended by striking “(within the meaning of  
16       section 404(a))” and inserting “(within the  
17       meaning of section 404(a) and as adjusted  
18       under section 404(a)(12))”.

19          (c) EFFECTIVE DATE.—The amendments made by  
20       this section shall apply to years beginning after December  
21       31, 2001.

22       **SEC. 208. OPTION TO TREAT ELECTIVE DEFERRALS AS**  
23       **AFTER-TAX CONTRIBUTIONS.**

24          (a) IN GENERAL.—Subpart A of part I of subchapter  
25       D of chapter 1 (relating to deferred compensation, etc.)

1 is amended by inserting after section 402 the following  
 2 new section:

3 **“SEC. 402A. OPTIONAL TREATMENT OF ELECTIVE DEFER-**  
 4 **RAIS AS PLUS CONTRIBUTIONS.**

5 “(a) GENERAL RULE.—If an applicable retirement  
 6 plan includes a qualified plus contribution program—

7 “(1) any designated plus contribution made by  
 8 an employee pursuant to the program shall be treat-  
 9 ed as an elective deferral for purposes of this chap-  
 10 ter, except that such contribution shall not be ex-  
 11 cludable from gross income, and

12 “(2) such plan (and any arrangement which is  
 13 part of such plan) shall not be treated as failing to  
 14 meet any requirement of this chapter solely by rea-  
 15 son of including such program.

16 “(b) QUALIFIED PLUS CONTRIBUTION PROGRAM.—  
 17 For purposes of this section—

18 “(1) IN GENERAL.—The term ‘qualified plus  
 19 contribution program’ means a program under which  
 20 an employee may elect to make designated plus con-  
 21 tributions in lieu of all or a portion of elective defer-  
 22 rals the employee is otherwise eligible to make under  
 23 the applicable retirement plan.

24 “(2) SEPARATE ACCOUNTING REQUIRED.—A  
 25 program shall not be treated as a qualified plus con-

1       tribution program unless the applicable retirement  
2       plan—

3               “(A) establishes separate accounts (‘des-  
4               ignated plus accounts’) for the designated plus  
5               contributions of each employee and any earn-  
6               ings properly allocable to the contributions, and

7               “(B) maintains separate recordkeeping  
8               with respect to each account.

9       “(c) DEFINITIONS AND RULES RELATING TO DES-  
10       IGNATED PLUS CONTRIBUTIONS.—For purposes of this  
11       section—

12               “(1) DESIGNATED PLUS CONTRIBUTION.—The  
13               term ‘designated plus contribution’ means any elec-  
14               tive deferral which—

15               “(A) is excludable from gross income of an  
16               employee without regard to this section, and

17               “(B) the employee designates (at such time  
18               and in such manner as the Secretary may pre-  
19               scribe) as not being so excludable.

20               “(2) DESIGNATION LIMITS.—The amount of  
21               elective deferrals which an employee may designate  
22               under paragraph (1) shall not exceed the excess (if  
23               any) of—

24               “(A) the maximum amount of elective de-  
25               ferrals excludable from gross income of the em-

1            ployee for the taxable year (without regard to  
2            this section), over

3            “(B) the aggregate amount of elective de-  
4            ferrals of the employee for the taxable year  
5            which the employee does not designate under  
6            paragraph (1).

7            “(3) ROLLOVER CONTRIBUTIONS.—

8            “(A) IN GENERAL.—A rollover contribu-  
9            tion of any payment or distribution from a des-  
10          ignated plus account which is otherwise allow-  
11          able under this chapter may be made only if the  
12          contribution is to—

13                  “(i) another designated plus account  
14                  of the individual from whose account the  
15                  payment or distribution was made, or

16                  “(ii) a Roth IRA of such individual.

17            “(B) COORDINATION WITH LIMIT.—Any  
18            rollover contribution to a designated plus ac-  
19            count under subparagraph (A) shall not be  
20            taken into account for purposes of paragraph  
21            (1).

22            “(d) DISTRIBUTION RULES.—For purposes of this  
23          title—

1           “(1) EXCLUSION.—Any qualified distribution  
2           from a designated plus account shall not be includ-  
3           ible in gross income.

4           “(2) QUALIFIED DISTRIBUTION.—For purposes  
5           of this subsection—

6                   “(A) IN GENERAL.—The term ‘qualified  
7                   distribution’ has the meaning given such term  
8                   by section 408A(d)(2)(A) (without regard to  
9                   clause (iv) thereof).

10                   “(B) DISTRIBUTIONS WITHIN NONEXCLU-  
11                   SION PERIOD.—A payment or distribution from  
12                   a designated plus account shall not be treated  
13                   as a qualified distribution if such payment or  
14                   distribution is made within the 5-taxable-year  
15                   period beginning with the earlier of—

16                           “(i) the first taxable year for which  
17                           the individual made a designated plus con-  
18                           tribution to any designated plus account  
19                           established for such individual under the  
20                           same applicable retirement plan, or

21                           “(ii) if a rollover contribution was  
22                           made to such designated plus account from  
23                           a designated plus account previously estab-  
24                           lished for such individual under another  
25                           applicable retirement plan, the first taxable

1                   year for which the individual made a des-  
 2                   ignated plus contribution to such pre-  
 3                   viously established account.

4                   “(C) DISTRIBUTIONS OF EXCESS DEFER-  
 5                   RALS AND EARNINGS.—The term ‘qualified dis-  
 6                   tribution’ shall not include any distribution of  
 7                   any excess deferral under section 402(g)(2) and  
 8                   any income on the excess deferral.

9                   “(3) AGGREGATION RULES.—Section 72 shall  
 10                  be applied separately with respect to distributions  
 11                  and payments from a designated plus account and  
 12                  other distributions and payments from the plan.

13                  “(e) OTHER DEFINITIONS.—For purposes of this  
 14                  section—

15                  “(1) APPLICABLE RETIREMENT PLAN.—The  
 16                  term ‘applicable retirement plan’ means—

17                         “(A) an employees’ trust described in sec-  
 18                         tion 401(a) which is exempt from tax under  
 19                         section 501(a), and

20                         “(B) a plan under which amounts are con-  
 21                         tributed by an individual’s employer for an an-  
 22                         nuity contract described in section 403(b).

23                  “(2) ELECTIVE DEFERRAL.—The term ‘elective  
 24                  deferral’ means any elective deferral described in  
 25                  subparagraph (A) or (C) of section 402(g)(3).”.

1 (b) EXCESS DEFERRALS.—Section 402(g) (relating  
2 to limitation on exclusion for elective deferrals) is  
3 amended—

4 (1) by adding at the end of paragraph (1) the  
5 following new sentence: “The preceding sentence  
6 shall not apply to so much of such excess as does  
7 not exceed the designated plus contributions of the  
8 individual for the taxable year.”; and

9 (2) by inserting “(or would be included but for  
10 the last sentence thereof)” after “paragraph (1)” in  
11 paragraph (2)(A).

12 (c) ROLLOVERS.—Subparagraph (B) of section  
13 402(c)(8) is amended by adding at the end the following:

14 “If any portion of an eligible rollover distribu-  
15 tion is attributable to payments or distributions  
16 from a designated plus account (as defined in  
17 section 402A), an eligible retirement plan with  
18 respect to such portion shall include only an-  
19 other designated plus account and a Roth  
20 IRA.”.

21 (d) REPORTING REQUIREMENTS.—

22 (1) W-2 INFORMATION.—Section 6051(a)(8) is  
23 amended by inserting “, including the amount of  
24 designated plus contributions (as defined in section  
25 402A)” before the comma at the end.



1           (2) INFORMATION.—Section 6047 is amended  
 2       by redesignating subsection (f) as subsection (g) and  
 3       by inserting after subsection (e) the following new  
 4       subsection:

5       “(f) DESIGNATED PLUS CONTRIBUTIONS.—The Sec-  
 6       retary shall require the plan administrator of each applica-  
 7       ble retirement plan (as defined in section 402A) to make  
 8       such returns and reports regarding designated plus con-  
 9       tributions (as so defined) to the Secretary, participants  
 10      and beneficiaries of the plan, and such other persons as  
 11      the Secretary may prescribe.”.

12      (e) CONFORMING AMENDMENTS.—

13           (1) Section 408A(e) is amended by adding after  
 14      the first sentence the following new sentence: “Such  
 15      term includes a rollover contribution described in  
 16      section 402A(c)(3)(A).”.

17           (2) The table of sections for subpart A of part  
 18      I of subchapter D of chapter 1 is amended by insert-  
 19      ing after the item relating to section 402 the fol-  
 20      lowing new item:

“Sec. 402A. Optional treatment of elective deferrals as plus con-  
 tributions.”.

21      (f) EFFECTIVE DATE.—The amendments made by  
 22      this section shall apply to taxable years beginning after  
 23      December 31, 2001.

# **TITLE III—ENHANCING FAIRNESS FOR WOMEN**

## **SEC. 301. CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS AGE 50 OR OVER.**

(a) IN GENERAL.—Section 414 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

“(v) CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS  
AGE 50 OR OVER.—

“(1) IN GENERAL.—An applicable employer plan shall not be treated as failing to meet any requirement of this title solely because the plan permits an eligible participant to make additional elective deferrals in any plan year.

“(2) LIMITATION ON AMOUNT OF ADDITIONAL DEFERRALS.—A plan shall not permit additional elective deferrals under paragraph (1) for any year in an amount greater than the lesser of—

“(A) \$5,000, or

“(B) the excess (if any) of—

“(i) the participant’s compensation for the year, over

“(ii) any other elective deferrals of the participant for such year which are made without regard to this subsection.

1           “(3) TREATMENT OF CONTRIBUTIONS.—In the  
2           case of any contribution to a plan under paragraph  
3           (1), such contribution shall not, with respect to the  
4           year in which the contribution is made—

5                   “(A) be subject to any otherwise applicable  
6           limitation contained in section 402(g),  
7           402(h)(2), 404(a), 404(h), 408(p)(2)(A)(ii),  
8           415, or 457, or

9                   “(B) be taken into account in applying  
10          such limitations to other contributions or bene-  
11          fits under such plan or any other such plan.

12          “(4) APPLICATION OF NONDISCRIMINATION  
13          RULES.—

14                   “(A) IN GENERAL.—An applicable em-  
15          ployer plan shall not be treated as failing to  
16          meet the nondiscrimination requirements under  
17          section 401(a)(4) with respect to benefits,  
18          rights, and features if the plan allows all eligi-  
19          ble participants to make the same election with  
20          respect to the additional elective deferrals under  
21          this subsection.

22                   “(B) AGGREGATION.—For purposes of  
23          subparagraph (A), all plans maintained by em-  
24          ployers who are treated as a single employer

1 under subsection (b), (c), (m), or (o) of section  
2 414 shall be treated as 1 plan.

3 “(5) ELIGIBLE PARTICIPANT.—For purposes of  
4 this subsection, the term ‘eligible participant’ means,  
5 with respect to any plan year, a participant in a  
6 plan—

7 “(A) who has attained the age of 50 before  
8 the close of the plan year, and

9 “(B) with respect to whom no other elec-  
10 tive deferrals may (without regard to this sub-  
11 section) be made to the plan for the plan year  
12 by reason of the application of any limitation or  
13 other restriction described in paragraph (3) or  
14 comparable limitation contained in the terms of  
15 the plan.

16 “(6) OTHER DEFINITIONS AND RULES.—For  
17 purposes of this subsection—

18 “(A) APPLICABLE EMPLOYER PLAN.—The  
19 term ‘applicable employer plan’ means—

20 “(i) an employees’ trust described in  
21 section 401(a) which is exempt from tax  
22 under section 501(a),

23 “(ii) a plan under which amounts are  
24 contributed by an individual’s employer for

1 an annuity contract described in section  
2 403(b),

3 “(iii) an eligible deferred compensa-  
4 tion plan under section 457 of an eligible  
5 employer as defined in section  
6 457(e)(1)(A), and

7 “(iv) an arrangement meeting the re-  
8 quirements of section 408 (k) or (p).

9 “(B) ELECTIVE DEFERRAL.—The term  
10 ‘elective deferral’ has the meaning given such  
11 term by subsection (u)(2)(C).

12 “(C) EXCEPTION FOR SECTION 457  
13 PLANS.—This subsection shall not apply to an  
14 applicable employer plan described in subpara-  
15 graph (A)(iii) for any year to which section  
16 457(b)(3) applies.

17 “(D) COST-OF-LIVING ADJUSTMENT.—In  
18 the case of a year beginning after December 31,  
19 2005, the Secretary shall adjust annually the  
20 \$5,000 amount in paragraph (2)(A) for in-  
21 creases in the cost-of-living at the same time  
22 and in the same manner as adjustments under  
23 section 415(d); except that the base period  
24 taken into account shall be the calendar quarter  
25 beginning July 1, 2004, and any increase under

1           this subparagraph which is not a multiple of  
 2           \$500 shall be rounded to the next lower mul-  
 3           tiple of \$500.”.

4           (b) EFFECTIVE DATE.—The amendment made by  
 5 this section shall apply to contributions in taxable years  
 6 beginning after December 31, 2000.

7   **SEC. 302. EQUITABLE TREATMENT FOR CONTRIBUTIONS OF**  
 8                   **EMPLOYEES TO DEFINED CONTRIBUTION**  
 9                   **PLANS.**

10          (a) EQUITABLE TREATMENT.—

11           (1) IN GENERAL.—Subparagraph (B) of section  
 12           415(c)(1) (relating to limitation for defined con-  
 13           tribution plans) is amended by striking “25 percent”  
 14           and inserting “100 percent”.

15           (2) APPLICATION TO SECTION 403(b).—Section  
 16           403(b) is amended—

17                   (A) by striking “the exclusion allowance  
 18                   for such taxable year” in paragraph (1) and in-  
 19                   serting “the applicable limit under section  
 20                   415”;

21                   (B) by striking paragraph (2); and

22                   (C) by inserting “or any amount received  
 23                   by a former employee after the fifth taxable  
 24                   year following the taxable year in which such  
 25                   employee was terminated” before the period at

1 the end of the second sentence of paragraph  
2 (3).

3 (3) CONFORMING AMENDMENTS.—

4 (A) Subsection (f) of section 72 is amend-  
5 ed by striking “section 403(b)(2)(D)(iii)” and  
6 inserting “section 403(b)(2)(D)(iii), as in effect  
7 before the enactment of the Comprehensive Re-  
8 tirement Security and Pension Reform Act of  
9 2001)”.

10 (B) Section 404(a)(10)(B) is amended by  
11 striking “, the exclusion allowance under sec-  
12 tion 403(b)(2),”.

13 (C) Section 415(a)(2) is amended by strik-  
14 ing “, and the amount of the contribution for  
15 such portion shall reduce the exclusion allow-  
16 ance as provided in section 403(b)(2)”.

17 (D) Section 415(c)(3) is amended by add-  
18 ing at the end the following new subparagraph:

19 “(E) ANNUITY CONTRACTS.—In the case  
20 of an annuity contract described in section  
21 403(b), the term ‘participant’s compensation’  
22 means the participant’s includible compensation  
23 determined under section 403(b)(3).”.

24 (E) Section 415(c) is amended by striking  
25 paragraph (4).

1 (F) Section 415(c)(7) is amended to read  
2 as follows:

3 “(7) CERTAIN CONTRIBUTIONS BY CHURCH  
4 PLANS NOT TREATED AS EXCEEDING LIMIT.—

5 “(A) IN GENERAL.—Notwithstanding any  
6 other provision of this subsection, at the elec-  
7 tion of a participant who is an employee of a  
8 church or a convention or association of church-  
9 es, including an organization described in sec-  
10 tion 414(e)(3)(B)(ii), contributions and other  
11 additions for an annuity contract or retirement  
12 income account described in section 403(b) with  
13 respect to such participant, when expressed as  
14 an annual addition to such participant’s ac-  
15 count, shall be treated as not exceeding the lim-  
16 itation of paragraph (1) if such annual addition  
17 is not in excess of \$10,000.

18 “(B) \$40,000 AGGREGATE LIMITATION.—  
19 The total amount of additions with respect to  
20 any participant which may be taken into ac-  
21 count for purposes of this subparagraph for all  
22 years may not exceed \$40,000.

23 “(C) ANNUAL ADDITION.—For purposes of  
24 this paragraph, the term ‘annual addition’ has



1 the meaning given such term by paragraph  
2 (2).”.

3 (G) Subparagraph (B) of section 402(g)(7)  
4 (as redesignated by section 201) is amended by  
5 inserting before the period at the end the fol-  
6 lowing: “(as in effect before the enactment of  
7 the Comprehensive Retirement Security and  
8 Pension Reform Act of 2001)”.

9 (H) Section 664(g) is amended—

10 (i) in paragraph (3)(E) by striking  
11 “limitations under section 415(c)” and in-  
12 serting “applicable limitation under para-  
13 graph (7)”, and

14 (ii) by adding at the end the following  
15 new paragraph:

16 “(7) APPLICABLE LIMITATION.—

17 “(A) IN GENERAL.—For purposes of para-  
18 graph (3)(E), the applicable limitation under  
19 this paragraph with respect to a participant is  
20 an amount equal to the lesser of—

21 “(i) \$30,000, or

22 “(ii) 25 percent of the participant’s  
23 compensation (as defined in section  
24 415(c)(3)).

1           “(B) COST-OF-LIVING ADJUSTMENT.—The  
2           Secretary shall adjust annually the \$30,000  
3           amount under subparagraph (A)(i) at the same  
4           time and in the same manner as under section  
5           415(d), except that the base period shall be the  
6           calendar quarter beginning October 1, 1993,  
7           and any increase under this subparagraph  
8           which is not a multiple of \$5,000 shall be  
9           rounded to the next lowest multiple of \$5,000.”.

10          (3) EFFECTIVE DATE.—The amendments made  
11          by this subsection shall apply to years beginning  
12          after December 31, 2000.

13          (b) SPECIAL RULES FOR SECTIONS 403(b) AND  
14          408.—

15               (1) IN GENERAL.—Subsection (k) of section  
16          415 is amended by adding at the end the following  
17          new paragraph:

18               “(4) SPECIAL RULES FOR SECTIONS 403(b)  
19          AND 408.—For purposes of this section, any annuity  
20          contract described in section 403(b) for the benefit  
21          of a participant shall be treated as a defined con-  
22          tribution plan maintained by each employer with re-  
23          spect to which the participant has the control re-  
24          quired under subsection (b) or (c) of section 414 (as  
25          modified by subsection (h)). For purposes of this

1 section, any contribution by an employer to a sim-  
2 plified employee pension plan for an individual for a  
3 taxable year shall be treated as an employer con-  
4 tribution to a defined contribution plan for such in-  
5 dividual for such year.”.

6 (2) EFFECTIVE DATE.—

7 (A) IN GENERAL.—The amendment made  
8 by paragraph (1) shall apply to limitation years  
9 beginning after December 31, 1999.

10 (B) EXCLUSION ALLOWANCE.—Effective  
11 for limitation years beginning in 2000, in the  
12 case of any annuity contract described in sec-  
13 tion 403(b) of the Internal Revenue Code of  
14 1986, the amount of the contribution disquali-  
15 fied by reason of section 415(g) of such Code  
16 shall reduce the exclusion allowance as provided  
17 in section 403(b)(2) of such Code.

18 (3) MODIFICATION OF 403(b) EXCLUSION AL-  
19 LOWANCE TO CONFORM TO 415 MODIFICATION.—The  
20 Secretary of the Treasury shall modify the regula-  
21 tions regarding the exclusion allowance under section  
22 403(b)(2) of the Internal Revenue Code of 1986 to  
23 render void the requirement that contributions to a  
24 defined benefit pension plan be treated as previously  
25 excluded amounts for purposes of the exclusion al-

1 lowance. For taxable years beginning after Decem-  
 2 ber 31, 1999, such regulations shall be applied as if  
 3 such requirement were void.

4 (c) DEFERRED COMPENSATION PLANS OF STATE  
 5 AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANI-  
 6 ZATIONS.—

7 (1) IN GENERAL.—Subparagraph (B) of section  
 8 457(b)(2) (relating to salary limitation on eligible  
 9 deferred compensation plans) is amended by striking  
 10 “33 $\frac{1}{3}$  percent” and inserting “100 percent”.

11 (2) EFFECTIVE DATE.—The amendment made  
 12 by this subsection shall apply to years beginning  
 13 after December 31, 2000.

14 **SEC. 303. FASTER VESTING OF CERTAIN EMPLOYER**  
 15 **MATCHING CONTRIBUTIONS.**

16 (a) AMENDMENT OF INTERNAL REVENUE CODE.—  
 17 Section 411(a) (relating to minimum vesting standards)  
 18 is amended—

19 (1) in paragraph (2), by striking “A plan” and  
 20 inserting “Except as provided in paragraph (12), a  
 21 plan”; and

22 (2) by adding at the end the following:

23 “(12) FASTER VESTING FOR MATCHING CON-  
 24 TRIBUTIONS.—In the case of matching contributions

1 (as defined in section 401(m)(4)(A)), paragraph (2)  
 2 shall be applied—

3 “(A) by substituting ‘3 years’ for ‘5 years’  
 4 in subparagraph (A), and

5 “(B) by substituting the following table for  
 6 the table contained in subparagraph (B):

<b>“Years of service:</b>	<b>The nonforfeitable percentage is:</b>
2 .....	20
3 .....	40
4 .....	60
5 .....	80
6 .....	100.”.

7 (b) AMENDMENT OF ERISA.—Section 203(a) of the  
 8 Employee Retirement Income Security Act of 1974 (29  
 9 U.S.C. 1053(a)) is amended—

10 (1) in paragraph (2), by striking “A plan” and  
 11 inserting “Except as provided in paragraph (4), a  
 12 plan”, and

13 (2) by adding at the end the following:

14 “(4) In the case of matching contributions (as  
 15 defined in section 401(m)(4)(A) of the Internal Rev-  
 16 enue Code of 1986), paragraph (2) shall be  
 17 applied—

18 “(A) by substituting ‘3 years’ for ‘5 years’  
 19 in subparagraph (A), and

20 “(B) by substituting the following table for  
 21 the table contained in subparagraph (B):

<b>“Years of service:</b>	<b>The nonforfeitable percentage is:</b>
2 .....	20
3 .....	40
4 .....	60
5 .....	80
6 .....	100.”.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contributions for plan years beginning after December 31, 2001.

(2) COLLECTIVE BARGAINING AGREEMENTS.—

In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified by the date of the enactment of this Act, the amendments made by this section shall not apply to contributions on behalf of employees covered by any such agreement for plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of the enactment); or

(ii) January 1, 2002; or

(B) January 1, 2006.

1           (3) SERVICE REQUIRED.—With respect to any  
 2           plan, the amendments made by this section shall not  
 3           apply to any employee before the date that such em-  
 4           ployee has 1 hour of service under such plan in any  
 5           plan year to which the amendments made by this  
 6           section apply.

7   **SEC. 304. SIMPLIFY AND UPDATE THE MINIMUM DISTRIBUTION RULES.**  
 8

9           (a) SIMPLIFICATION AND FINALIZATION OF MIN-  
 10          IMUM DISTRIBUTION REQUIREMENTS.—

11           (1) IN GENERAL.—The Secretary of the Treas-  
 12          ury shall—

13                   (A) simplify and finalize the regulations re-  
 14                   lating to minimum distribution requirements  
 15                   under sections 401(a)(9), 408(a)(6) and (b)(3),  
 16                   403(b)(10), and 457(d)(2) of the Internal Rev-  
 17                   enue Code of 1986; and

18                   (B) modify such regulations to—

19                           (i) reflect current life expectancy; and

20                           (ii) revise the required distribution  
 21                   methods so that, under reasonable assump-  
 22                   tions, the amount of the required minimum  
 23                   distribution does not decrease over a par-  
 24                   ticipant's life expectancy.

1           (2) FRESH START.—Notwithstanding subpara-  
 2           graph (D) of section 401(a)(9) of such Code, during  
 3           the first year that regulations are in effect under  
 4           this subsection, required distributions for future  
 5           years may be redetermined to reflect changes under  
 6           such regulations. Such redetermination shall include  
 7           the opportunity to choose a new designated bene-  
 8           ficiary and to elect a new method of calculating life  
 9           expectancy.

10           (3) DATE FOR REGULATIONS.—Not later than  
 11           December 31, 2002, the Secretary shall issue final  
 12           regulations described in paragraph (1) and such reg-  
 13           ulations shall apply without regard to whether an in-  
 14           dividual had previously begun receiving minimum  
 15           distributions.

16           (b) REPEAL OF RULE WHERE DISTRIBUTIONS HAD  
 17           BEGUN BEFORE DEATH OCCURS.—

18           (1) IN GENERAL.—Subparagraph (B) of section  
 19           401(a)(9) is amended by striking clause (i) and re-  
 20           designating clauses (ii), (iii), and (iv) as clauses (i),  
 21           (ii), and (iii), respectively.

22           (2) CONFORMING CHANGES.—

23           (A) Clause (i) of section 401(a)(9)(B) (as  
 24           so redesignated) is amended—



1 (i) by striking “FOR OTHER CASES” in  
2 the heading; and

3 (ii) by striking “the distribution of the  
4 employee’s interest has begun in accord-  
5 ance with subparagraph (A)(ii)” and in-  
6 serting “his entire interest has been dis-  
7 tributed to him”.

8 (B) Clause (ii) of section 401(a)(9)(B) (as  
9 so redesignated) is amended by striking “clause  
10 (ii)” and inserting “clause (i)”.

11 (C) Clause (iii) of section 401(a)(9)(B) (as  
12 so redesignated) is amended—

13 (i) by striking “clause (iii)(I)” and in-  
14 serting “clause (ii)(I)”;

15 (ii) by striking “clause (iii)(III)” in  
16 subclause (I) and inserting “clause  
17 (ii)(III)”;

18 (iii) by striking “the date on which  
19 the employee would have attained age  
20 70½,” in subclause (I) and inserting  
21 “April 1 of the calendar year following the  
22 calendar year in which the spouse attains  
23 70½,”; and

24 (iv) by striking “the distributions to  
25 such spouse begin,” in subclause (II) and

1           inserting “his entire interest has been dis-  
2           tributed to him,”.

3           (3) EFFECTIVE DATE.—

4           (A) IN GENERAL.—Except as provided in  
5           subparagraph (B), the amendments made by  
6           this subsection shall apply to years beginning  
7           after December 31, 2001.

8           (B) DISTRIBUTIONS TO SURVIVING  
9           SPOUSE.—

10           (i) IN GENERAL.—In the case of an  
11           employee described in clause (ii), distribu-  
12           tions to the surviving spouse of the em-  
13           ployee shall not be required to commence  
14           prior to the date on which such distribu-  
15           tions would have been required to begin  
16           under section 401(a)(9)(B) of the Internal  
17           Revenue Code of 1986 (as in effect on the  
18           day before the date of the enactment of  
19           this Act).

20           (ii) CERTAIN EMPLOYEES.—An em-  
21           ployee is described in this clause if such  
22           employee dies before—

23                   (I) the date of the enactment of  
24                   this Act, and

1 (II) the required beginning date  
 2 (within the meaning of section  
 3 401(a)(9)(C) of the Internal Revenue  
 4 Code of 1986) of the employee.

5 (c) REDUCTION IN EXCISE TAX.—

6 (1) IN GENERAL.—Subsection (a) of section  
 7 4974 is amended by striking “50 percent” and in-  
 8 serting “10 percent”.

9 (2) EFFECTIVE DATE.—The amendment made  
 10 by this subsection shall apply to years beginning  
 11 after December 31, 2001.

12 **SEC. 305. CLARIFICATION OF TAX TREATMENT OF DIVISION**  
 13 **OF SECTION 457 PLAN BENEFITS UPON DI-**  
 14 **VORCE.**

15 (a) IN GENERAL.—Section 414(p)(11) (relating to  
 16 application of rules to governmental and church plans) is  
 17 amended—

18 (1) by inserting “or an eligible deferred com-  
 19 pensation plan (within the meaning of section  
 20 457(b))” after “subsection (e)”; and

21 (2) in the heading, by striking “GOVERN-  
 22 MENTAL AND CHURCH PLANS” and inserting “CER-  
 23 TAIN OTHER PLANS”.

24 (b) WAIVER OF CERTAIN DISTRIBUTION REQUIRE-  
 25 MENTS.—Paragraph (10) of section 414(p) is amended by

1 striking “and section 409(d)” and inserting “section  
2 409(d), and section 457(d)”.

3 (c) TAX TREATMENT OF PAYMENTS FROM A SEC-  
4 TION 457 PLAN.—Subsection (p) of section 414 is amend-  
5 ed by redesignating paragraph (12) as paragraph (13) and  
6 inserting after paragraph (11) the following new para-  
7 graph:

8 “(12) TAX TREATMENT OF PAYMENTS FROM A  
9 SECTION 457 PLAN.—If a distribution or payment  
10 from an eligible deferred compensation plan de-  
11 scribed in section 457(b) is made pursuant to a  
12 qualified domestic relations order, rules similar to  
13 the rules of section 402(e)(1)(A) shall apply to such  
14 distribution or payment.”.

15 (d) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to transfers, distributions, and  
17 payments made after December 31, 2001.

18 **SEC. 306. MODIFICATION OF SAFE HARBOR RELIEF FOR**  
19 **HARDSHIP WITHDRAWALS FROM CASH OR**  
20 **DEFERRED ARRANGEMENTS.**

21 (a) IN GENERAL.—The Secretary of the Treasury  
22 shall revise the regulations relating to hardship distribu-  
23 tions under section 401(k)(2)(B)(i)(IV) of the Internal  
24 Revenue Code of 1986 to provide that the period an em-  
25 ployee is prohibited from making elective and employee

1 contributions in order for a distribution to be deemed nec-  
 2 essary to satisfy financial need shall be equal to 6 months.

3 (b) EFFECTIVE DATE.—The revised regulations  
 4 under subsection (a) shall apply to years beginning after  
 5 December 31, 2001.

## 6 **TITLE IV—INCREASING PORT-** 7 **ABILITY FOR PARTICIPANTS**

### 8 **SEC. 401. ROLLOVERS ALLOWED AMONG VARIOUS TYPES** 9 **OF PLANS.**

10 (a) ROLLOVERS FROM AND TO SECTION 457  
 11 PLANS.—

12 (1) ROLLOVERS FROM SECTION 457 PLANS.—

13 (A) IN GENERAL.—Section 457(e) (relat-  
 14 ing to other definitions and special rules) is  
 15 amended by adding at the end the following:

16 “(16) ROLLOVER AMOUNTS.—

17 “(A) GENERAL RULE.—In the case of an  
 18 eligible deferred compensation plan established  
 19 and maintained by an employer described in  
 20 subsection (e)(1)(A), if—

21 “(i) any portion of the balance to the  
 22 credit of an employee in such plan is paid  
 23 to such employee in an eligible rollover dis-  
 24 tribution (within the meaning of section

1           402(c)(4) without regard to subparagraph  
2           (C) thereof),

3           “(ii) the employee transfers any por-  
4           tion of the property such employee receives  
5           in such distribution to an eligible retire-  
6           ment plan described in section  
7           402(c)(8)(B), and

8           “(iii) in the case of a distribution of  
9           property other than money, the amount so  
10          transferred consists of the property distrib-  
11          uted,

12          then such distribution (to the extent so trans-  
13          ferred) shall not be includible in gross income  
14          for the taxable year in which paid.

15          “(B) CERTAIN RULES MADE APPLICA-  
16          BLE.—The rules of paragraphs (2) through (7)  
17          (other than paragraph (4)(C)) and (9) of sec-  
18          tion 402(c) and section 402(f) shall apply for  
19          purposes of subparagraph (A).

20          “(C) REPORTING.—Rollovers under this  
21          paragraph shall be reported to the Secretary in  
22          the same manner as rollovers from qualified re-  
23          tirement plans (as defined in section  
24          4974(c)).”.

1 (B) DEFERRAL LIMIT DETERMINED WITH-  
 2 OUT REGARD TO ROLLOVER AMOUNTS.—Section  
 3 457(b)(2) (defining eligible deferred compensa-  
 4 tion plan) is amended by inserting “(other than  
 5 rollover amounts)” after “taxable year”.

6 (C) DIRECT ROLLOVER.—Paragraph (1) of  
 7 section 457(d) is amended by striking “and” at  
 8 the end of subparagraph (A), by striking the  
 9 period at the end of subparagraph (B) and in-  
 10 serting “, and”, and by inserting after subpara-  
 11 graph (B) the following:

12 “(C) in the case of a plan maintained by  
 13 an employer described in subsection (e)(1)(A),  
 14 the plan meets requirements similar to the re-  
 15 quirements of section 401(a)(31).

16 Any amount transferred in a direct trustee-to-trust-  
 17 ee transfer in accordance with section 401(a)(31)  
 18 shall not be includible in gross income for the tax-  
 19 able year of transfer.”.

20 (D) WITHHOLDING.—

21 (i) Paragraph (12) of section 3401(a)  
 22 is amended by adding at the end the fol-  
 23 lowing:

24 “(E) under or to an eligible deferred com-  
 25 pensation plan which, at the time of such pay-

ment, is a plan described in section 457(b) maintained by an employer described in section 457(e)(1)(A); or”.

(ii) Paragraph (3) of section 3405(c) is amended to read as follows:

“(3) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this subsection, the term ‘eligible rollover distribution’ has the meaning given such term by section 402(f)(2)(A).”.

(iii) LIABILITY FOR WITHHOLDING.—Subparagraph (B) of section 3405(d)(2) is amended by striking “or” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, or”, and by adding at the end the following:

“(iv) section 457(b) and which is maintained by an eligible employer described in section 457(e)(1)(A).”.

(2) ROLLOVERS TO SECTION 457 PLANS.—

(A) IN GENERAL.—Section 402(c)(8)(B) (defining eligible retirement plan) is amended by striking “and” at the end of clause (iii), by striking the period at the end of clause (iv) and inserting “, and”, and by inserting after clause (iv) the following new clause:



1 “(v) an eligible deferred compensation  
2 plan described in section 457(b) which is  
3 maintained by an eligible employer de-  
4 scribed in section 457(e)(1)(A).”.

5 (B) SEPARATE ACCOUNTING.—Section  
6 402(c) is amended by adding at the end the fol-  
7 lowing new paragraph:

8 “(11) SEPARATE ACCOUNTING.—Unless a plan  
9 described in clause (v) of paragraph (8)(B) agrees to  
10 separately account for amounts rolled into such plan  
11 from eligible retirement plans not described in such  
12 clause, the plan described in such clause may not ac-  
13 cept transfers or rollovers from such retirement  
14 plans.”.

15 (C) 10 PERCENT ADDITIONAL TAX.—Sub-  
16 section (t) of section 72 (relating to 10-percent  
17 additional tax on early distributions from quali-  
18 fied retirement plans) is amended by adding at  
19 the end the following new paragraph:

20 “(9) SPECIAL RULE FOR ROLLOVERS TO SEC-  
21 TION 457 PLANS.—For purposes of this subsection,  
22 a distribution from an eligible deferred compensation  
23 plan (as defined in section 457(b)) of an eligible em-  
24 ployer described in section 457(e)(1)(A) shall be  
25 treated as a distribution from a qualified retirement

1 plan described in 4974(c)(1) to the extent that such  
 2 distribution is attributable to an amount transferred  
 3 to an eligible deferred compensation plan from a  
 4 qualified retirement plan (as defined in section  
 5 4974(c)).”.

6 (b) ALLOWANCE OF ROLLOVERS FROM AND TO  
 7 403(b) PLANS.—

8 (1) ROLLOVERS FROM SECTION 403(b) PLANS.—

9 Section 403(b)(8)(A)(ii) (relating to rollover  
 10 amounts) is amended by striking “such distribution”  
 11 and all that follows and inserting “such distribution  
 12 to an eligible retirement plan described in section  
 13 402(c)(8)(B), and”.

14 (2) ROLLOVERS TO SECTION 403(b) PLANS.—

15 Section 402(c)(8)(B) (defining eligible retirement  
 16 plan), as amended by subsection (a), is amended by  
 17 striking “and” at the end of clause (iv), by striking  
 18 the period at the end of clause (v) and inserting “,  
 19 and”, and by inserting after clause (v) the following  
 20 new clause:

21 “(vi) an annuity contract described in  
 22 section 403(b).”.

23 (c) EXPANDED EXPLANATION TO RECIPIENTS OF  
 24 ROLLOVER DISTRIBUTIONS.—Paragraph (1) of section  
 25 402(f) (relating to written explanation to recipients of dis-

1 tributions eligible for rollover treatment) is amended by  
 2 striking “and” at the end of subparagraph (C), by striking  
 3 the period at the end of subparagraph (D) and inserting  
 4 “, and”, and by adding at the end the following new sub-  
 5 paragraph:

6                   “(E) of the provisions under which dis-  
 7 tributions from the eligible retirement plan re-  
 8 ceiving the distribution may be subject to re-  
 9 strictions and tax consequences which are dif-  
 10 ferent from those applicable to distributions  
 11 from the plan making such distribution.”.

12       (d) SPOUSAL ROLLOVERS.—Section 402(c)(9) (relat-  
 13 ing to rollover where spouse receives distribution after  
 14 death of employee) is amended by striking “; except that”  
 15 and all that follows up to the end period.

16       (e) CONFORMING AMENDMENTS.—

17           (1) Section 72(o)(4) is amended by striking  
 18 “and 408(d)(3)” and inserting “403(b)(8),  
 19 408(d)(3), and 457(e)(16)”.

20           (2) Section 219(d)(2) is amended by striking  
 21 “or 408(d)(3)” and inserting “408(d)(3), or  
 22 457(e)(16)”.

23           (3) Section 401(a)(31)(B) is amended by strik-  
 24 ing “and 403(a)(4)” and inserting “, 403(a)(4),  
 25 403(b)(8), and 457(e)(16)”.

1           (4) Subparagraph (A) of section 402(f)(2) is  
2           amended by striking “or paragraph (4) of section  
3           403(a)” and inserting “, paragraph (4) of section  
4           403(a), subparagraph (A) of section 403(b)(8), or  
5           subparagraph (A) of section 457(e)(16)”.

6           (5) Paragraph (1) of section 402(f) is amended  
7           by striking “from an eligible retirement plan”.

8           (6) Subparagraphs (A) and (B) of section  
9           402(f)(1) are amended by striking “another eligible  
10          retirement plan” and inserting “an eligible retire-  
11          ment plan”.

12          (7) Subparagraph (B) of section 403(b)(8) is  
13          amended to read as follows:

14                 “(B) CERTAIN RULES MADE APPLICA-  
15                 BLE.—The rules of paragraphs (2) through (7)  
16                 and (9) of section 402(c) and section 402(f)  
17                 shall apply for purposes of subparagraph (A),  
18                 except that section 402(f) shall be applied to  
19                 the payor in lieu of the plan administrator.”.

20          (8) Section 408(a)(1) is amended by striking  
21          “or 403(b)(8),” and inserting “403(b)(8), or  
22          457(e)(16)”.

23          (9) Subparagraphs (A) and (B) of section  
24          415(b)(2) are each amended by striking “and

1       408(d)(3)” and inserting “403(b)(8), 408(d)(3), and  
2       457(e)(16)”.

3           (10) Section 415(c)(2) is amended by striking  
4       “and 408(d)(3)” and inserting “408(d)(3), and  
5       457(e)(16)”.

6           (11) Section 4973(b)(1)(A) is amended by  
7       striking “or 408(d)(3)” and inserting “408(d)(3), or  
8       457(e)(16)”.

9       (f) EFFECTIVE DATE; SPECIAL RULE.—

10           (1) EFFECTIVE DATE.—The amendments made  
11       by this section shall apply to distributions after the  
12       date of the enactment of this Act.

13           (2) SPECIAL RULE.—Notwithstanding any other  
14       provision of law, subsections (h)(3) and (h)(5) of  
15       section 1122 of the Tax Reform Act of 1986 shall  
16       not apply to any distribution from an eligible retire-  
17       ment plan (as defined in clause (iii) or (iv) of section  
18       402(c)(8)(B) of the Internal Revenue Code of 1986)  
19       on behalf of an individual if there was a rollover to  
20       such plan on behalf of such individual which is per-  
21       mitted solely by reason of any amendment made by  
22       this section.

1 **SEC. 402. ROLLOVERS OF IRAS INTO WORKPLACE RETIRE-**  
2 **MENT PLANS.**

3 (a) IN GENERAL.—Subparagraph (A) of section  
4 408(d)(3) (relating to rollover amounts) is amended by  
5 adding “or” at the end of clause (i), by striking clauses  
6 (ii) and (iii), and by adding at the end the following:

7 “(ii) the entire amount received (in-  
8 cluding money and any other property) is  
9 paid into an eligible retirement plan for  
10 the benefit of such individual not later  
11 than the 60th day after the date on which  
12 the payment or distribution is received, ex-  
13 cept that the maximum amount which may  
14 be paid into such plan may not exceed the  
15 portion of the amount received which is in-  
16 cludible in gross income (determined with-  
17 out regard to this paragraph).

18 For purposes of clause (ii), the term ‘eligible re-  
19 tirement plan’ means an eligible retirement plan  
20 described in clause (iii), (iv), (v), or (vi) of sec-  
21 tion 402(c)(8)(B).”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Paragraph (1) of section 403(b) is amended  
24 by striking “section 408(d)(3)(A)(iii)” and inserting  
25 “section 408(d)(3)(A)(ii)”.

1           (2) Clause (i) of section 408(d)(3)(D) is amend-  
2       ed by striking “(i), (ii), or (iii)” and inserting “(i)  
3       or (ii)”.

4           (3) Subparagraph (G) of section 408(d)(3) is  
5       amended to read as follows:

6                       “(G) SIMPLE RETIREMENT ACCOUNTS.—In  
7       the case of any payment or distribution out of  
8       a simple retirement account (as defined in sub-  
9       section (p)) to which section 72(t)(6) applies,  
10      this paragraph shall not apply unless such pay-  
11      ment or distribution is paid into another simple  
12      retirement account.”.

13       (c) EFFECTIVE DATE; SPECIAL RULE.—

14           (1) EFFECTIVE DATE.—The amendments made  
15      by this section shall apply to distributions after the  
16      date of the enactment of this Act.

17           (2) SPECIAL RULE.—Notwithstanding any other  
18      provision of law, subsections (h)(3) and (h)(5) of  
19      section 1122 of the Tax Reform Act of 1986 shall  
20      not apply to any distribution from an eligible retire-  
21      ment plan (as defined in clause (iii) or (iv) of section  
22      402(c)(8)(B) of the Internal Revenue Code of 1986)  
23      on behalf of an individual if there was a rollover to  
24      such plan on behalf of such individual which is per-

mitted solely by reason of the amendments made by  
this section.

**SEC. 403. ROLLOVERS OF AFTER-TAX CONTRIBUTIONS.**

(a) ROLLOVERS FROM EXEMPT TRUSTS.—Paragraph (2) of section 402(c) (relating to maximum amount which may be rolled over) is amended by adding at the end the following: “The preceding sentence shall not apply to such distribution to the extent—

“(A) such portion is transferred in a direct trustee-to-trustee transfer to a qualified trust which is part of a plan which is a defined contribution plan and which agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible, or

“(B) such portion is transferred to an eligible retirement plan described in clause (i) or (ii) of paragraph (8)(B).”.

(b) OPTIONAL DIRECT TRANSFER OF ELIGIBLE ROLLOVER DISTRIBUTIONS.—Subparagraph (B) of section 401(a)(31) (relating to limitation) is amended by adding at the end the following: “The preceding sentence shall



1 not apply to such distribution if the plan to which such  
 2 distribution is transferred—

3 “(i) agrees to separately account for  
 4 amounts so transferred, including sepa-  
 5 rately accounting for the portion of such  
 6 distribution which is includible in gross in-  
 7 come and the portion of such distribution  
 8 which is not so includible, or

9 “(ii) is an eligible retirement plan de-  
 10 scribed in clause (i) or (ii) of section  
 11 402(c)(8)(B).”.

12 (c) RULES FOR APPLYING SECTION 72 TO IRAS.—  
 13 Paragraph (3) of section 408(d) (relating to special rules  
 14 for applying section 72) is amended by inserting at the  
 15 end the following:

16 “(H) APPLICATION OF SECTION 72.—

17 “(i) IN GENERAL.—If—

18 “(I) a distribution is made from  
 19 an individual retirement plan, and

20 “(II) a rollover contribution is  
 21 made to an eligible retirement plan  
 22 described in section 402(c)(8)(B)(iii),  
 23 (iv), (v), or (vi) with respect to all or  
 24 part of such distribution,

1 then, notwithstanding paragraph (2), the  
2 rules of clause (ii) shall apply for purposes  
3 of applying section 72.

4 “(ii) APPLICABLE RULES.—In the  
5 case of a distribution described in clause  
6 (i)—

7 “(I) section 72 shall be applied  
8 separately to such distribution,

9 “(II) notwithstanding the pro  
10 rata allocation of income on, and in-  
11 vestment in, the contract to distribu-  
12 tions under section 72, the portion of  
13 such distribution rolled over to an eli-  
14 gible retirement plan described in  
15 clause (i) shall be treated as from in-  
16 come on the contract (to the extent of  
17 the aggregate income on the contract  
18 from all individual retirement plans of  
19 the distributee), and

20 “(III) appropriate adjustments  
21 shall be made in applying section 72  
22 to other distributions in such taxable  
23 year and subsequent taxable years.”.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to distributions made after the  
3 date of the enactment of this Act.

4 **SEC. 404. HARDSHIP EXCEPTION TO 60-DAY RULE.**

5 (a) EXEMPT TRUSTS.—Paragraph (3) of section  
6 402(c) (relating to transfer must be made within 60 days  
7 of receipt) is amended to read as follows:

8 “(3) TRANSFER MUST BE MADE WITHIN 60  
9 DAYS OF RECEIPT.—

10 “(A) IN GENERAL.—Except as provided in  
11 subparagraph (B), paragraph (1) shall not  
12 apply to any transfer of a distribution made  
13 after the 60th day following the day on which  
14 the distributee received the property distrib-  
15 uted.

16 “(B) HARDSHIP EXCEPTION.—The Sec-  
17 retary may waive the 60-day requirement under  
18 subparagraph (A) where the failure to waive  
19 such requirement would be against equity or  
20 good conscience, including casualty, disaster, or  
21 other events beyond the reasonable control of  
22 the individual subject to such requirement.”.

23 (b) IRAS.—Paragraph (3) of section 408(d) (relating  
24 to rollover contributions), as amended by section 403, is

1 amended by adding after subparagraph (H) the following  
 2 new subparagraph:

3 “(I) WAIVER OF 60-DAY REQUIREMENT.—

4 The Secretary may waive the 60-day require-  
 5 ment under subparagraphs (A) and (D) where  
 6 the failure to waive such requirement would be  
 7 against equity or good conscience, including  
 8 casualty, disaster, or other events beyond the  
 9 reasonable control of the individual subject to  
 10 such requirement.”.

11 (c) EFFECTIVE DATE.—The amendments made by  
 12 this section shall apply to distributions after the date of  
 13 the enactment of this Act.

14 **SEC. 405. TREATMENT OF FORMS OF DISTRIBUTION.**

15 (a) PLAN TRANSFERS.—

16 (1) AMENDMENT OF INTERNAL REVENUE  
 17 CODE.—Paragraph (6) of section 411(d) (relating to  
 18 accrued benefit not to be decreased by amendment)  
 19 is amended by adding at the end the following:

20 “(D) PLAN TRANSFERS.—

21 “(i) IN GENERAL.—A defined con-  
 22 tribution plan (in this subparagraph re-  
 23 ferred to as the ‘transferee plan’) shall not  
 24 be treated as failing to meet the require-  
 25 ments of this subsection merely because

1 the transferee plan does not provide some  
2 or all of the forms of distribution pre-  
3 viously available under another defined  
4 contribution plan (in this subparagraph re-  
5 ferred to as the ‘transferor plan’) to the  
6 extent that—

7 “(I) the forms of distribution  
8 previously available under the trans-  
9 feror plan applied to the account of a  
10 participant or beneficiary under the  
11 transferor plan that was transferred  
12 from the transferor plan to the trans-  
13 feree plan pursuant to a direct trans-  
14 fer rather than pursuant to a distribu-  
15 tion from the transferor plan,

16 “(II) the terms of both the trans-  
17 feror plan and the transferee plan au-  
18 thorize the transfer described in sub-  
19 clause (I),

20 “(III) the transfer described in  
21 subclause (I) was made pursuant to a  
22 voluntary election by the participant  
23 or beneficiary whose account was  
24 transferred to the transferee plan,

1                   “(IV) the election described in  
2                   subclause (III) was made after the  
3                   participant or beneficiary received a  
4                   notice describing the consequences of  
5                   making the election, and

6                   “(V) the transferee plan allows  
7                   the participant or beneficiary de-  
8                   scribed in subclause (III) to receive  
9                   any distribution to which the partici-  
10                  pant or beneficiary is entitled under  
11                  the transferee plan in the form of a  
12                  single sum distribution.

13               “(ii) EXCEPTION.—Clause (i) shall  
14               apply to plan mergers and other trans-  
15               actions having the effect of a direct trans-  
16               fer, including consolidations of benefits at-  
17               tributable to different employers within a  
18               multiple employer plan.

19               “(E) ELIMINATION OF FORM OF DISTRIBUTION.—Except to the extent provided in regula-  
20               tions, a defined contribution plan shall not be  
21               treated as failing to meet the requirements of  
22               this section merely because of the elimination of  
23               a form of distribution previously available there-  
24               under. This subparagraph shall not apply to the  
25

1           elimination of a form of distribution with re-  
2           spect to any participant unless—

3                   “(i) a single sum payment is available  
4                   to such participant at the same time or  
5                   times as the form of distribution being  
6                   eliminated, and

7                   “(ii) such single sum payment is  
8                   based on the same or greater portion of  
9                   the participant’s account as the form of  
10                  distribution being eliminated.”.

11           (2) AMENDMENT OF ERISA.—Section 204(g) of  
12           the Employee Retirement Income Security Act of  
13           1974 (29 U.S.C. 1054(g)) is amended by adding at  
14           the end the following:

15           “(4)(A) A defined contribution plan (in this subpara-  
16           graph referred to as the ‘transferee plan’) shall not be  
17           treated as failing to meet the requirements of this sub-  
18           section merely because the transferee plan does not pro-  
19           vide some or all of the forms of distribution previously  
20           available under another defined contribution plan (in this  
21           subparagraph referred to as the ‘transferor plan’) to the  
22           extent that—

23                   “(i) the forms of distribution previously avail-  
24                   able under the transferor plan applied to the account  
25                   of a participant or beneficiary under the transferor

1 plan that was transferred from the transferor plan  
2 to the transferee plan pursuant to a direct transfer  
3 rather than pursuant to a distribution from the  
4 transferor plan;

5 “(ii) the terms of both the transferor plan and  
6 the transferee plan authorize the transfer described  
7 in clause (i);

8 “(iii) the transfer described in clause (i) was  
9 made pursuant to a voluntary election by the partici-  
10 pant or beneficiary whose account was transferred to  
11 the transferee plan;

12 “(iv) the election described in clause (iii) was  
13 made after the participant or beneficiary received a  
14 notice describing the consequences of making the  
15 election; and

16 “(v) the transferee plan allows the participant  
17 or beneficiary described in clause (iii) to receive any  
18 distribution to which the participant or beneficiary is  
19 entitled under the transferee plan in the form of a  
20 single sum distribution.

21 “(B) Subparagraph (A) shall apply to plan mergers  
22 and other transactions having the effect of a direct trans-  
23 fer, including consolidations of benefits attributable to dif-  
24 ferent employers within a multiple employer plan.



1       “(5) Except to the extent provided in regulations pro-  
 2 mulgated by the Secretary of the Treasury, a defined con-  
 3 tribution plan shall not be treated as failing to meet the  
 4 requirements of this subsection merely because of the  
 5 elimination of a form of distribution previously available  
 6 thereunder. This paragraph shall not apply to the elimi-  
 7 nation of a form of distribution with respect to any partici-  
 8 pant unless—

9               “(A) a single sum payment is available to such  
 10 participant at the same time or times as the form  
 11 of distribution being eliminated; and

12               “(B) such single sum payment is based on the  
 13 same or greater portion of the participant’s account  
 14 as the form of distribution being eliminated.”.

15               (3) EFFECTIVE DATE.—The amendments made  
 16 by this subsection shall apply to years beginning  
 17 after December 31, 2001.

18               (b) REGULATIONS.—

19               (1) AMENDMENT OF INTERNAL REVENUE  
 20 CODE.—Paragraph (6)(B) of section 411(d) (relat-  
 21 ing to accrued benefit not to be decreased by amend-  
 22 ment) is amended by inserting after the second sen-  
 23 tence the following new sentence: “The Secretary  
 24 shall by regulations provide that this subparagraph  
 25 shall not apply to any plan amendment which re-

1       duces or eliminates benefits or subsidies which cre-  
2       ate significant burdens or complexities for the plan  
3       and plan participants and does not adversely affect  
4       the rights of any participant in a more than de mini-  
5       mis manner.”.

6               (2) AMENDMENT OF ERISA.—Section 204(g)(2)  
7       of the Employee Retirement Income Security Act of  
8       1974 (29 U.S.C. 1054(g)(2)) is amended by insert-  
9       ing before the last sentence the following new sen-  
10      tence: “The Secretary of the Treasury shall by regu-  
11      lations provide that this paragraph shall not apply  
12      to any plan amendment which reduces or eliminates  
13      benefits or subsidies which create significant bur-  
14      dens or complexities for the plan and plan partici-  
15      pants and does not adversely affect the rights of any  
16      participant in a more than de minimis manner.”.

17             (3) SECRETARY DIRECTED.—Not later than  
18      December 31, 2003, the Secretary of the Treasury  
19      is directed to issue regulations under section  
20      411(d)(6) of the Internal Revenue Code of 1986 and  
21      section 204(g) of the Employee Retirement Income  
22      Security Act of 1974, including the regulations re-  
23      quired by the amendment made by this subsection.  
24      Such regulations shall apply to plan years beginning

after December 31, 2003, or such earlier date as is specified by the Secretary of the Treasury.

**SEC. 406. RATIONALIZATION OF RESTRICTIONS ON DISTRIBUTIONS.**

(a) MODIFICATION OF SAME DESK EXCEPTION.—

(1) SECTION 401(k).—

(A) Section 401(k)(2)(B)(i)(I) (relating to qualified cash or deferred arrangements) is amended by striking “separation from service” and inserting “severance from employment”.

(B) Subparagraph (A) of section 401(k)(10) (relating to distributions upon termination of plan or disposition of assets or subsidiary) is amended to read as follows:

“(A) IN GENERAL.—An event described in this subparagraph is the termination of the plan without establishment or maintenance of another defined contribution plan (other than an employee stock ownership plan as defined in section 4975(e)(7)).”.

(C) Section 401(k)(10) is amended—

(i) in subparagraph (B)—

(I) by striking “An event” in clause (i) and inserting “A termination”; and

1 (II) by striking “the event” in  
2 clause (i) and inserting “the termi-  
3 nation”;  
4 (ii) by striking subparagraph (C); and  
5 (iii) by striking “OR DISPOSITION OF  
6 ASSETS OR SUBSIDIARY” in the heading.

7 (2) SECTION 403(b).—

8 (A) Paragraphs (7)(A)(ii) and (11)(A) of  
9 section 403(b) are each amended by striking  
10 “separates from service” and inserting “has a  
11 severance from employment”.

12 (B) The heading for paragraph (11) of  
13 section 403(b) is amended by striking “SEPARA-  
14 TION FROM SERVICE” and inserting “SEVER-  
15 ANCE FROM EMPLOYMENT”.

16 (3) SECTION 457.—Clause (ii) of section  
17 457(d)(1)(A) is amended by striking “is separated  
18 from service” and inserting “has a severance from  
19 employment”.

20 (b) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to distributions after the date of  
22 the enactment of this Act.

1 **SEC. 407. PURCHASE OF SERVICE CREDIT IN GOVERN-**  
 2 **MENTAL DEFINED BENEFIT PLANS.**

3 (a) 403(b) PLANS.—Subsection (b) of section 403 is  
 4 amended by adding at the end the following new para-  
 5 graph:

6 “(13) TRUSTEE-TO-TRUSTEE TRANSFERS TO  
 7 PURCHASE PERMISSIVE SERVICE CREDIT.—No  
 8 amount shall be includible in gross income by reason  
 9 of a direct trustee-to-trustee transfer to a defined  
 10 benefit governmental plan (as defined in section  
 11 414(d)) if such transfer is—

12 “(A) for the purchase of permissive service  
 13 credit (as defined in section 415(n)(3)(A))  
 14 under such plan, or

15 “(B) a repayment to which section 415  
 16 does not apply by reason of subsection (k)(3)  
 17 thereof.”.

18 (b) 457 PLANS.—Subsection (e) of section 457 is  
 19 amended by adding after paragraph (16) the following  
 20 new paragraph:

21 “(17) TRUSTEE-TO-TRUSTEE TRANSFERS TO  
 22 PURCHASE PERMISSIVE SERVICE CREDIT.—No  
 23 amount shall be includible in gross income by reason  
 24 of a direct trustee-to-trustee transfer to a defined  
 25 benefit governmental plan (as defined in section  
 26 414(d)) if such transfer is—

1           “(A) for the purchase of permissive service  
2           credit (as defined in section 415(n)(3)(A))  
3           under such plan, or

4           “(B) a repayment to which section 415  
5           does not apply by reason of subsection (k)(3)  
6           thereof.”.

7           (c) EFFECTIVE DATE.—The amendments made by  
8           this section shall apply to trustee-to-trustee transfers after  
9           the date of the enactment of this Act.

10   **SEC. 408. EMPLOYERS MAY DISREGARD ROLLOVERS FOR**  
11           **PURPOSES OF CASH-OUT AMOUNTS.**

12           (a) QUALIFIED PLANS.—

13           (1) AMENDMENT OF INTERNAL REVENUE  
14           CODE.—Section 411(a)(11) (relating to restrictions  
15           on certain mandatory distributions) is amended by  
16           adding at the end the following:

17           “(D) SPECIAL RULE FOR ROLLOVER CON-  
18           TRIBUTIONS.—A plan shall not fail to meet the  
19           requirements of this paragraph if, under the  
20           terms of the plan, the present value of the non-  
21           forfeitable accrued benefit is determined with-  
22           out regard to that portion of such benefit which  
23           is attributable to rollover contributions (and  
24           earnings allocable thereto). For purposes of this  
25           subparagraph, the term ‘rollover contributions’

1 means any rollover contribution under sections  
2 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii),  
3 and 457(e)(16).”.

4 (2) AMENDMENT OF ERISA.—Section 203(e) of  
5 the Employee Retirement Income Security Act of  
6 1974 (29 U.S.C. 1053(c)) is amended by adding at  
7 the end the following:

8 “(4) A plan shall not fail to meet the requirements  
9 of this subsection if, under the terms of the plan, the  
10 present value of the nonforfeitable accrued benefit is de-  
11 termined without regard to that portion of such benefit  
12 which is attributable to rollover contributions (and earn-  
13 ings allocable thereto). For purposes of this subparagraph,  
14 the term ‘rollover contributions’ means any rollover con-  
15 tribution under sections 402(c), 403(a)(4), 403(b)(8),  
16 408(d)(3)(A)(ii), and 457(e)(16) of the Internal Revenue  
17 Code of 1986.”.

18 (b) ELIGIBLE DEFERRED COMPENSATION PLANS.—  
19 Clause (i) of section 457(e)(9)(A) is amended by striking  
20 “such amount” and inserting “the portion of such amount  
21 which is not attributable to rollover contributions (as de-  
22 fined in section 411(a)(11)(D))”.

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to distributions after December 31,  
25 2001.

1 **SEC. 409. MINIMUM DISTRIBUTION AND INCLUSION RE-**  
 2 **QUIREMENTS FOR SECTION 457 PLANS.**

3 (a) MINIMUM DISTRIBUTION REQUIREMENTS.—  
 4 Paragraph (2) of section 457(d) (relating to distribution  
 5 requirements) is amended to read as follows:

6 “(2) MINIMUM DISTRIBUTION REQUIRE-  
 7 MENTS.—A plan meets the minimum distribution re-  
 8 quirements of this paragraph if such plan meets the  
 9 requirements of section 401(a)(9).”.

10 (b) INCLUSION IN GROSS INCOME.—

11 (1) YEAR OF INCLUSION.—Subsection (a) of  
 12 section 457 (relating to year of inclusion in gross in-  
 13 come) is amended to read as follows:

14 “(a) YEAR OF INCLUSION IN GROSS INCOME.—

15 “(1) IN GENERAL.—Any amount of compensa-  
 16 tion deferred under an eligible deferred compensa-  
 17 tion plan, and any income attributable to the  
 18 amounts so deferred, shall be includible in gross in-  
 19 come only for the taxable year in which such com-  
 20 pensation or other income—

21 “(A) is paid to the participant or other  
 22 beneficiary, in the case of a plan of an eligible  
 23 employer described in subsection (e)(1)(A), and

24 “(B) is paid or otherwise made available to  
 25 the participant or other beneficiary, in the case



1 of a plan of an eligible employer described in  
 2 subsection (e)(1)(B).

3 “(2) SPECIAL RULE FOR ROLLOVER  
 4 AMOUNTS.—To the extent provided in section  
 5 72(t)(9), section 72(t) shall apply to any amount in-  
 6 cludible in gross income under this subsection.”.

7 (2) CONFORMING AMENDMENTS.—

8 (A) So much of paragraph (9) of section  
 9 457(e) as precedes subparagraph (A) is amend-  
 10 ed to read as follows:

11 “(9) BENEFITS OF TAX EXEMPT ORGANIZATION  
 12 PLANS NOT TREATED AS MADE AVAILABLE BY REA-  
 13 SON OF CERTAIN ELECTIONS, ETC.—In the case of  
 14 an eligible deferred compensation plan of an em-  
 15 ployer described in subsection (e)(1)(B)—”.

16 (B) Section 457(d) is amended by adding  
 17 at the end the following new paragraph:

18 “(3) SPECIAL RULE FOR GOVERNMENT PLAN.—  
 19 An eligible deferred compensation plan of an em-  
 20 ployer described in subsection (e)(1)(A) shall not be  
 21 treated as failing to meet the requirements of this  
 22 subsection solely by reason of making a distribution  
 23 described in subsection (e)(9)(A).”.

1 (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to distributions after the date of  
 3 the enactment of this Act.

4 **TITLE V—STRENGTHENING PEN-**  
 5 **SION SECURITY AND EN-**  
 6 **FORCEMENT**

7 **SEC. 501. REPEAL OF PERCENT OF CURRENT LIABILITY**  
 8 **FUNDING LIMIT.**

9 (a) AMENDMENT OF INTERNAL REVENUE CODE.—  
 10 Section 412(c)(7) (relating to full-funding limitation) is  
 11 amended—

12 (1) by striking “the applicable percentage” in  
 13 subparagraph (A)(i)(I) and inserting “in the case of  
 14 plan years beginning before January 1, 2004, the  
 15 applicable percentage”; and

16 (2) by amending subparagraph (F) to read as  
 17 follows:

18 “(F) APPLICABLE PERCENTAGE.—For  
 19 purposes of subparagraph (A)(i)(I), the applica-  
 20 ble percentage shall be determined in accord-  
 21 ance with the following table:

<b>“In the case of any plan year beginning in—</b>	<b>The applicable percentage is—</b>
2002 .....	165
2003 .....	170.”.

1 (b) AMENDMENT OF ERISA.—Section 302(c)(7) of  
 2 the Employee Retirement Income Security Act of 1974  
 3 (29 U.S.C. 1082(c)(7)) is amended—

4 (1) by striking “the applicable percentage” in  
 5 subparagraph (A)(i)(I) and inserting “in the case of  
 6 plan years beginning before January 1, 2004, the  
 7 applicable percentage”; and

8 (2) by amending subparagraph (F) to read as  
 9 follows:

10 “(F) APPLICABLE PERCENTAGE.—For  
 11 purposes of subparagraph (A)(i)(I), the applica-  
 12 ble percentage shall be determined in accord-  
 13 ance with the following table:

<b>“In the case of any plan year beginning in—</b>	<b>The applicable percentage is—</b>
2002 .....	165
2003 .....	170.”.

14 (c) EFFECTIVE DATE.—The amendments made by  
 15 this section shall apply to plan years beginning after De-  
 16 cember 31, 2001.

17 **SEC. 502. MAXIMUM CONTRIBUTION DEDUCTION RULES**  
 18 **MODIFIED AND APPLIED TO ALL DEFINED**  
 19 **BENEFIT PLANS.**

20 (a) IN GENERAL.—Subparagraph (D) of section  
 21 404(a)(1) (relating to special rule in case of certain plans)  
 22 is amended to read as follows:

1                   “(D) SPECIAL RULE IN CASE OF CERTAIN  
2                   PLANS.—

3                   “(i) IN GENERAL.—In the case of any  
4                   defined benefit plan, except as provided in  
5                   regulations, the maximum amount deduct-  
6                   ible under the limitations of this paragraph  
7                   shall not be less than the unfunded termi-  
8                   nation liability (determined as if the pro-  
9                   posed termination date referred to in sec-  
10                  tion 4041(b)(2)(A)(i)(II) of the Employee  
11                  Retirement Income Security Act of 1974  
12                  were the last day of the plan year).

13                  “(ii) PLANS WITH LESS THAN 100  
14                  PARTICIPANTS.—For purposes of this sub-  
15                  paragraph, in the case of a plan which has  
16                  less than 100 participants for the plan  
17                  year, termination liability shall not include  
18                  the liability attributable to benefit in-  
19                  creases for highly compensated employees  
20                  (as defined in section 414(q)) resulting  
21                  from a plan amendment which is made or  
22                  becomes effective, whichever is later, within  
23                  the last 2 years before the termination  
24                  date.

1                   “(iii) RULE FOR DETERMINING NUM-  
 2                   BER OF PARTICIPANTS.—For purposes of  
 3                   determining whether a plan has more than  
 4                   100 participants, all defined benefit plans  
 5                   maintained by the same employer (or any  
 6                   member of such employer’s controlled  
 7                   group (within the meaning of section  
 8                   412(l)(8)(C))) shall be treated as one plan,  
 9                   but only employees of such member or em-  
 10                  ployer shall be taken into account.

11                  “(iv) PLANS MAINTAINED BY PROFES-  
 12                  SIONAL SERVICE EMPLOYERS.—Clause (i)  
 13                  shall not apply to a plan described in sec-  
 14                  tion 4021(b)(13) of the Employee Retire-  
 15                  ment Income Security Act of 1974.”.

16                  (b) CONFORMING AMENDMENT.—Paragraph (6) of  
 17                  section 4972(c) is amended to read as follows:

18                  “(6) EXCEPTIONS.—In determining the amount  
 19                  of nondeductible contributions for any taxable year,  
 20                  there shall not be taken into account so much of the  
 21                  contributions to one or more defined contribution  
 22                  plans which are not deductible when contributed  
 23                  solely because of section 404(a)(7) as does not ex-  
 24                  ceed the greater of—

1           “(A) the amount of contributions not in  
 2           excess of 6 percent of compensation (within the  
 3           meaning of section 404(a)) paid or accrued  
 4           (during the taxable year for which the contribu-  
 5           tions were made) to beneficiaries under the  
 6           plans, or

7           “(B) the sum of—

8                   “(i) the amount of contributions de-  
 9                   scribed in section 401(m)(4)(A), plus

10                   “(ii) the amount of contributions de-  
 11                   scribed in section 402(g)(3)(A).

12       For purposes of this paragraph, the deductible limits  
 13       under section 404(a)(7) shall first be applied to  
 14       amounts contributed to a defined benefit plan and  
 15       then to amounts described in subparagraph (B).”.

16       (c) EFFECTIVE DATE.—The amendments made by  
 17       this section shall apply to plan years beginning after De-  
 18       cember 31, 2001.

19       **SEC. 503. EXCISE TAX RELIEF FOR SOUND PENSION FUND-**  
 20                   **ING.**

21       (a) IN GENERAL.—Subsection (c) of section 4972  
 22       (relating to nondeductible contributions) is amended by  
 23       adding at the end the following new paragraph:

24                   “(7) DEFINED BENEFIT PLAN EXCEPTION.—In  
 25       determining the amount of nondeductible contribu-

1        tions for any taxable year, an employer may elect for  
 2        such year not to take into account any contributions  
 3        to a defined benefit plan except to the extent that  
 4        such contributions exceed the full-funding limitation  
 5        (as defined in section 412(c)(7), determined without  
 6        regard to subparagraph (A)(i)(I) thereof). For pur-  
 7        poses of this paragraph, the deductible limits under  
 8        section 404(a)(7) shall first be applied to amounts  
 9        contributed to defined contribution plans and then  
 10       to amounts described in this paragraph. If an em-  
 11       ployer makes an election under this paragraph for a  
 12       taxable year, paragraph (6) shall not apply to such  
 13       employer for such taxable year.”.

14       (b) EFFECTIVE DATE.—The amendment made by  
 15       this section shall apply to years beginning after December  
 16       31, 2001.

17       **SEC. 504. EXCISE TAX ON FAILURE TO PROVIDE NOTICE BY**  
 18                                **DEFINED BENEFIT PLANS SIGNIFICANTLY**  
 19                                **REDUCING FUTURE BENEFIT ACCRUALS.**

20       (a) AMENDMENT OF INTERNAL REVENUE CODE.—

21                (1) IN GENERAL.—Chapter 43 (relating to  
 22       qualified pension, etc., plans) is amended by adding  
 23       at the end the following new section:

1 **“SEC. 4980F. FAILURE OF APPLICABLE PLANS REDUCING**  
2 **BENEFIT ACCRUALS TO SATISFY NOTICE RE-**  
3 **QUIREMENTS.**

4 “(a) IMPOSITION OF TAX.—There is hereby imposed  
5 a tax on the failure of any applicable pension plan to meet  
6 the requirements of subsection (e) with respect to any ap-  
7 plicable individual.

8 “(b) AMOUNT OF TAX.—

9 “(1) IN GENERAL.—The amount of the tax im-  
10 posed by subsection (a) on any failure with respect  
11 to any applicable individual shall be \$100 for each  
12 day in the noncompliance period with respect to such  
13 failure.

14 “(2) NONCOMPLIANCE PERIOD.—For purposes  
15 of this section, the term ‘noncompliance period’  
16 means, with respect to any failure, the period begin-  
17 ning on the date the failure first occurs and ending  
18 on the date the failure is corrected.

19 “(c) LIMITATIONS ON AMOUNT OF TAX.—

20 “(1) OVERALL LIMITATION FOR UNINTEN-  
21 TIONAL FAILURES.—In the case of failures that are  
22 due to reasonable cause and not to willful neglect,  
23 the tax imposed by subsection (a) for failures during  
24 the taxable year of the employer (or, in the case of  
25 a multiemployer plan, the taxable year of the trust  
26 forming part of the plan) shall not exceed \$500,000.



1 For purposes of the preceding sentence, all multiem-  
2 ployer plans of which the same trust forms a part  
3 shall be treated as one plan. For purposes of this  
4 paragraph, if not all persons who are treated as a  
5 single employer for purposes of this section have the  
6 same taxable year, the taxable years taken into ac-  
7 count shall be determined under principles similar to  
8 the principles of section 1561.

9 “(2) WAIVER BY SECRETARY.—In the case of a  
10 failure which is due to reasonable cause and not to  
11 willful neglect, the Secretary may waive part or all  
12 of the tax imposed by subsection (a) to the extent  
13 that the payment of such tax would be excessive rel-  
14 ative to the failure involved.

15 “(d) LIABILITY FOR TAX.—The following shall be lia-  
16 ble for the tax imposed by subsection (a):

17 “(1) In the case of a plan other than a multi-  
18 employer plan, the employer.

19 “(2) In the case of a multiemployer plan, the  
20 plan.

21 “(e) NOTICE REQUIREMENTS FOR PLANS SIGNIFI-  
22 CANTLY REDUCING BENEFIT ACCRUALS.—

23 “(1) IN GENERAL.—If an applicable pension  
24 plan is amended to provide for a significant reduc-  
25 tion in the rate of future benefit accrual, the plan

1 administrator shall provide written notice to each  
2 applicable individual (and to each employee organi-  
3 zation representing applicable individuals).

4 “(2) NOTICE.—The notice required by para-  
5 graph (1) shall be written in a manner calculated to  
6 be understood by the average plan participant and  
7 shall provide sufficient information (as determined  
8 in accordance with regulations prescribed by the  
9 Secretary) to allow applicable individuals to under-  
10 stand the effect of the plan amendment. The Sec-  
11 retary may provide a simplified form of notice for,  
12 or exempt from any notice requirement, a plan—

13 “(A) which has fewer than 100 partici-  
14 pants who have accrued a benefit under the  
15 plan, or

16 “(B) which offers participants the option  
17 to choose between the new benefit formula and  
18 the old benefit formula.

19 “(3) TIMING OF NOTICE.—Except as provided  
20 in regulations, the notice required by paragraph (1)  
21 shall be provided within a reasonable time before the  
22 effective date of the plan amendment.

23 “(4) DESIGNEES.—Any notice under paragraph  
24 (1) may be provided to a person designated, in writ-

1 ing, by the person to which it would otherwise be  
2 provided.

3 “(5) NOTICE BEFORE ADOPTION OF AMEND-  
4 MENT.—A plan shall not be treated as failing to  
5 meet the requirements of paragraph (1) merely be-  
6 cause notice is provided before the adoption of the  
7 plan amendment if no material modification of the  
8 amendment occurs before the amendment is adopt-  
9 ed.

10 “(f) DEFINITIONS AND SPECIAL RULES.—For pur-  
11 poses of this section—

12 “(1) APPLICABLE INDIVIDUAL.—The term ‘ap-  
13 plicable individual’ means, with respect to any plan  
14 amendment—

15 “(A) each participant in the plan, and

16 “(B) any beneficiary who is an alternate  
17 payee (within the meaning of section 414(p)(8))  
18 under an applicable qualified domestic relations  
19 order (within the meaning of section  
20 414(p)(1)(A)),

21 whose rate of future benefit accrual under the plan  
22 may reasonably be expected to be significantly re-  
23 duced by such plan amendment.

24 “(2) APPLICABLE PENSION PLAN.—The term  
25 ‘applicable pension plan’ means—

1 “(A) any defined benefit plan, or

2 “(B) an individual account plan which is  
3 subject to the funding standards of section 412.

4 Such term shall not include a governmental plan  
5 (within the meaning of section 414(d)) or a church  
6 plan (within the meaning of section 414(e)) with re-  
7 spect to which the election provided by section  
8 410(d) has not been made.

9 “(3) EARLY RETIREMENT.—A plan amendment  
10 which eliminates or significantly reduces any early  
11 retirement benefit or retirement-type subsidy (within  
12 the meaning of section 411(d)(6)(B)(i)) shall be  
13 treated as having the effect of significantly reducing  
14 the rate of future benefit accrual.

15 “(g) NEW TECHNOLOGIES.—The Secretary may by  
16 regulations allow any notice under subsection (e) to be  
17 provided by using new technologies.”.

18 (2) CLERICAL AMENDMENT.—The table of sec-  
19 tions for chapter 43 is amended by adding at the  
20 end the following new item:

“Sec. 4980F. Failure of applicable plans reducing benefit accruals  
to satisfy notice requirements.”.

21 (b) AMENDMENT OF ERISA.—Section 204(h) of the  
22 Employee Retirement Income Security Act of 1974 (29  
23 U.S.C. 1054(h)) is amended by adding at the end the fol-  
24 lowing new paragraphs:

1       “(3)(A) An applicable pension plan to which para-  
2 graph (1) applies shall not be treated as meeting the re-  
3 quirements of such paragraph unless, in addition to any  
4 notice required to be provided to an individual or organiza-  
5 tion under such paragraph, the plan administrator pro-  
6 vides the notice described in subparagraph (B) to each ap-  
7 plicable individual (and to each employee organization rep-  
8 resenting applicable individuals).

9       “(B) The notice required by subparagraph (A) shall  
10 be written in a manner calculated to be understood by the  
11 average plan participant and shall provide sufficient infor-  
12 mation (as determined in accordance with regulations pre-  
13 scribed by the Secretary of the Treasury) to allow applica-  
14 ble individuals to understand the effect of the plan amend-  
15 ment. The Secretary of the Treasury may provide a sim-  
16 plified form of notice for, or exempt from any notice re-  
17 quirement, a plan—

18               “(i) which has fewer than 100 participants who  
19       have accrued a benefit under the plan, or

20               “(ii) which offers participants the option to  
21       choose between the new benefit formula and the old  
22       benefit formula.

23       “(C) Except as provided in regulations prescribed by  
24 the Secretary of the Treasury, the notice required by sub-

1 paragraph (A) shall be provided within a reasonable time  
2 before the effective date of the plan amendment.

3 “(D) Any notice under subparagraph (A) may be pro-  
4 vided to a person designated, in writing, by the person  
5 to which it would otherwise be provided.

6 “(E) A plan shall not be treated as failing to meet  
7 the requirements of subparagraph (A) merely because no-  
8 tice is provided before the adoption of the plan amendment  
9 if no material modification of the amendment occurs be-  
10 fore the amendment is adopted.

11 “(F) The Secretary of the Treasury may by regula-  
12 tions allow any notice under this paragraph to be provided  
13 by using new technologies.

14 “(4) For purposes of paragraph (3)—

15 “(A) The term ‘applicable individual’ means,  
16 with respect to any plan amendment—

17 “(i) each participant in the plan; and

18 “(ii) any beneficiary who is an alternate  
19 payee (within the meaning of section  
20 206(d)(3)(K)) under an applicable qualified do-  
21 mestic relations order (within the meaning of  
22 section 206(d)(3)(B)(i)),

23 whose rate of future benefit accrual under the plan  
24 may reasonably be expected to be significantly re-  
25 duced by such plan amendment.

1           “(B) The term ‘applicable pension plan’  
2 means—

3           “(i) any defined benefit plan; or

4           “(ii) an individual account plan which is  
5 subject to the funding standards of section 412  
6 of the Internal Revenue Code of 1986.

7           “(C) A plan amendment which eliminates or  
8 significantly reduces any early retirement benefit or  
9 retirement-type subsidy (within the meaning of sub-  
10 section (g)(2)(A)) shall be treated as having the ef-  
11 fect of significantly reducing the rate of future ben-  
12 efit accrual.”.

13       (c) EFFECTIVE DATES.—

14           (1) IN GENERAL.—The amendments made by  
15 this section shall apply to plan amendments taking  
16 effect on or after the date of the enactment of this  
17 Act.

18           (2) TRANSITION.—Until such time as the Sec-  
19 retary of the Treasury issues regulations under sec-  
20 tions 4980F(e)(2) and (3) of the Internal Revenue  
21 Code of 1986, and section 204(h)(3) of the Em-  
22 ployee Retirement Income Security Act of 1974, as  
23 added by the amendments made by this section, a  
24 plan shall be treated as meeting the requirements of

1       such sections if it makes a good faith effort to com-  
2       ply with such requirements.

3           (3) SPECIAL NOTICE RULE.—The period for  
4       providing any notice required by the amendments  
5       made by this section shall not end before the date  
6       which is 3 months after the date of the enactment  
7       of this Act.

8       (d) STUDY.—The Secretary of the Treasury shall  
9       prepare a report on the effects of conversions of tradi-  
10      tional defined benefit plans to cash balance or hybrid for-  
11      mula plans. Such study shall examine the effect of such  
12      conversions on longer service participants, including the  
13      incidence and effects of “wear away” provisions under  
14      which participants earn no additional benefits for a period  
15      of time after the conversion. As soon as practicable, but  
16      not later than 60 days after the date of the enactment  
17      of this Act, the Secretary shall submit such report, to-  
18      gether with recommendations thereon, to the Committee  
19      on Ways and Means and the Committee on Education and  
20      the Workforce of the House of Representatives and the  
21      Committee on Finance and the Committee on Health,  
22      Education, Labor, and Pensions of the Senate.

23   **SEC. 505. TREATMENT OF MULTIEMPLOYER PLANS UNDER**  
24                   **SECTION 415.**

25       (a) COMPENSATION LIMIT.—



1           (1) IN GENERAL.—Paragraph (11) of section  
2   415(b) (relating to limitation for defined benefit  
3   plans) is amended to read as follows:

4           “(11) SPECIAL LIMITATION RULE FOR GOVERN-  
5   MENTAL AND MULTIEMPLOYER PLANS.—In the case  
6   of a governmental plan (as defined in section  
7   414(d)) or a multiemployer plan (as defined in sec-  
8   tion 414(f)), subparagraph (B) of paragraph (1)  
9   shall not apply.”.

10          (2) CONFORMING AMENDMENT.—Section  
11   415(b)(7) (relating to benefits under certain collec-  
12   tively bargained plans) is amended by inserting  
13   “(other than a multiemployer plan)” after “defined  
14   benefit plan” in the matter preceding subparagraph  
15   (A).

16          (b) COMBINING AND AGGREGATION OF PLANS.—

17           (1) COMBINING OF PLANS.—Subsection (f) of  
18   section 415 (relating to combining of plans) is  
19   amended by adding at the end the following:

20           “(3) EXCEPTION FOR MULTIEMPLOYER  
21   PLANS.—Notwithstanding paragraph (1) and sub-  
22   section (g), a multiemployer plan (as defined in sec-  
23   tion 414(f)) shall not be combined or aggregated  
24   with any other plan maintained by an employer for  
25   purposes of applying the limitations established in

1       this section, except that such plan shall be combined  
 2       or aggregated with another plan which is not such  
 3       a multiemployer plan solely for purposes of deter-  
 4       mining whether such other plan meets the require-  
 5       ments of subsections (b)(1)(A) and (c).”.

6               (2) CONFORMING AMENDMENT FOR AGGREGA-  
 7       TION OF PLANS.—Subsection (g) of section 415 (re-  
 8       lating to aggregation of plans) is amended by strik-  
 9       ing “The Secretary” and inserting “Except as pro-  
 10      vided in subsection (f)(3), the Secretary”.

11      (c) EFFECTIVE DATE.—The amendments made by  
 12      this section shall apply to years beginning after December  
 13      31, 2001.

14      **SEC. 506. PROTECTION OF INVESTMENT OF EMPLOYEE**  
 15               **CONTRIBUTIONS TO 401(K) PLANS.**

16      (a) IN GENERAL.—Section 1524(b) of the Taxpayer  
 17      Relief Act of 1997 is amended to read as follows:

18      “(b) EFFECTIVE DATE.—

19               “(1) IN GENERAL.—Except as provided in para-  
 20      graph (2), the amendments made by this section  
 21      shall apply to elective deferrals for plan years begin-  
 22      ning after December 31, 1998.

23               “(2) NONAPPLICATION TO PREVIOUSLY AC-  
 24      QUIRED PROPERTY.—The amendments made by this  
 25      section shall not apply to any elective deferral which

1 is invested in assets consisting of qualifying em-  
 2 ployer securities, qualifying employer real property,  
 3 or both, if such assets were acquired before January  
 4 1, 1999.”.

5 (b) EFFECTIVE DATE.—The amendment made by  
 6 this section shall apply as if included in the provision of  
 7 the Taxpayer Relief Act of 1997 to which it relates.

8 **SEC. 507. PERIODIC PENSION BENEFITS STATEMENTS.**

9 (a) IN GENERAL.—Section 105(a) of the Employee  
 10 Retirement Income Security Act of 1974 (29 U.S.C. 1025  
 11 (a)) is amended to read as follows:

12 “(a)(1) Except as provided in paragraph (2)—

13 “(A) the administrator of an individual account  
 14 plan shall furnish a pension benefit statement—

15 “(i) to a plan participant at least once an-  
 16 nually, and

17 “(ii) to a plan beneficiary upon written re-  
 18 quest, and

19 “(B) the administrator of a defined benefit plan  
 20 shall furnish a pension benefit statement—

21 “(i) at least once every 3 years to each  
 22 participant with a nonforfeitable accrued ben-  
 23 efit who is employed by the employer maintain-  
 24 ing the plan at the time the statement is fur-  
 25 nished to participants, and

1                   “(ii) to a plan participant or plan bene-  
2                   ficiary of the plan upon written request.

3           “(2) Notwithstanding paragraph (1), the adminis-  
4           trator of a plan to which more than 1 unaffiliated em-  
5           ployer is required to contribute shall only be required to  
6           furnish a pension benefit statement under paragraph (1)  
7           upon the written request of a participant or beneficiary  
8           of the plan.

9           “(3) A pension benefit statement under paragraph  
10          (1)—

11                   “(A) shall indicate, on the basis of the latest  
12                   available information—

13                           “(i) the total benefits accrued, and

14                           “(ii) the nonforfeitable pension benefits, if  
15                   any, which have accrued, or the earliest date on  
16                   which benefits will become nonforfeitable,

17                   “(B) shall be written in a manner calculated to  
18                   be understood by the average plan participant, and

19                   “(C) may be provided in written, electronic, tel-  
20                   ephonic, or other appropriate form.

21           “(4)(A) In the case of a defined benefit plan, the re-  
22           quirements of paragraph (1)(B)(i) shall be treated as met  
23           with respect to a participant if the administrator provides  
24           the participant at least once each year with notice of the  
25           availability of the pension benefit statement and the ways

1 in which the participant may obtain such statement. Such  
2 notice shall be provided in written, electronic, telephonic,  
3 or other appropriate form, and may be included with other  
4 communications to the participant if done in a manner  
5 reasonably designed to attract the attention of the partici-  
6 pant.

7 “(B) The Secretary may provide that years in which  
8 no employee or former employee benefits (within the  
9 meaning of section 410(b) of the Internal Revenue Code  
10 of 1986) under the plan need not be taken into account  
11 in determining the 3-year period under paragraph  
12 (1)(B)(i).”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) Section 105 of the Employee Retirement In-  
15 come Security Act of 1974 (29 U.S.C. 1025) is  
16 amended by striking subsection (d).

17 (2) Section 105(b) of such Act (29 U.S.C.  
18 1025(b)) is amended to read as follows:

19 “(b) In no case shall a participant or beneficiary of  
20 a plan be entitled to more than one statement described  
21 in subsection (a)(1)(A) or (a)(1)(B)(ii), whichever is appli-  
22 cable, in any 12-month period.”.

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to plan years beginning after De-  
25 cember 31, 2002.

1 **SEC. 508. PROHIBITED ALLOCATIONS OF STOCK IN S COR-**  
2 **PORATION ESOP.**

3 (a) IN GENERAL.—Section 409 (relating to qualifica-  
4 tions for tax credit employee stock ownership plans) is  
5 amended by redesignating subsection (p) as subsection (q)  
6 and by inserting after subsection (o) the following new  
7 subsection:

8 “(p) PROHIBITED ALLOCATIONS OF SECURITIES IN  
9 AN S CORPORATION.—

10 “(1) IN GENERAL.—An employee stock owner-  
11 ship plan holding employer securities consisting of  
12 stock in an S corporation shall provide that no por-  
13 tion of the assets of the plan attributable to (or allo-  
14 cable in lieu of) such employer securities may, dur-  
15 ing a nonallocation year, accrue (or be allocated di-  
16 rectly or indirectly under any plan of the employer  
17 meeting the requirements of section 401(a)) for the  
18 benefit of any disqualified person.

19 “(2) FAILURE TO MEET REQUIREMENTS.—

20 “(A) IN GENERAL.—If a plan fails to meet  
21 the requirements of paragraph (1), the plan  
22 shall be treated as having distributed to any  
23 disqualified person the amount allocated to the  
24 account of such person in violation of para-  
25 graph (1) at the time of such allocation.

1 “(B) CROSS REFERENCE.—

“For excise tax relating to violations of paragraph (1) and ownership of synthetic equity, see section 4979A.

2 “(3) NONALLOCATION YEAR.—For purposes of  
3 this subsection—

4 “(A) IN GENERAL.—The term ‘nonalloca-  
5 tion year’ means any plan year of an employee  
6 stock ownership plan if, at any time during  
7 such plan year—

8 “(i) such plan holds employer securi-  
9 ties consisting of stock in an S corpora-  
10 tion, and

11 “(ii) disqualified persons own at least  
12 50 percent of the number of shares of  
13 stock in the S corporation.

14 “(B) ATTRIBUTION RULES.—For purposes  
15 of subparagraph (A)—

16 “(i) IN GENERAL.—The rules of sec-  
17 tion 318(a) shall apply for purposes of de-  
18 termining ownership, except that—

19 “(I) in applying paragraph (1)  
20 thereof, the members of an individ-  
21 ual’s family shall include members of  
22 the family described in paragraph  
23 (4)(D), and

1 “(II) paragraph (4) thereof shall  
2 not apply.

3 “(ii) DEEMED-OWNED SHARES.—Not-  
4 withstanding the employee trust exception  
5 in section 318(a)(2)(B)(i), individual shall  
6 be treated as owning deemed-owned shares  
7 of the individual.

8 Solely for purposes of applying paragraph (5),  
9 this subparagraph shall be applied after the at-  
10 tribution rules of paragraph (5) have been ap-  
11 plied.

12 “(4) DISQUALIFIED PERSON.—For purposes of  
13 this subsection—

14 “(A) IN GENERAL.—The term ‘disqualified  
15 person’ means any person if—

16 “(i) the aggregate number of deemed-  
17 owned shares of such person and the mem-  
18 bers of such person’s family is at least 20  
19 percent of the number of deemed-owned  
20 shares of stock in the S corporation, or

21 “(ii) in the case of a person not de-  
22 scribed in clause (i), the number of  
23 deemed-owned shares of such person is at  
24 least 10 percent of the number of deemed-  
25 owned shares of stock in such corporation.



1 “(B) TREATMENT OF FAMILY MEMBERS.—

2 In the case of a disqualified person described in  
 3 subparagraph (A)(i), any member of such per-  
 4 son’s family with deemed-owned shares shall be  
 5 treated as a disqualified person if not otherwise  
 6 treated as a disqualified person under subpara-  
 7 graph (A).

8 “(C) DEEMED-OWNED SHARES.—

9 “(i) IN GENERAL.—The term  
 10 ‘deemed-owned shares’ means, with respect  
 11 to any person—

12 “(I) the stock in the S corpora-  
 13 tion constituting employer securities  
 14 of an employee stock ownership plan  
 15 which is allocated to such person  
 16 under the plan, and

17 “(II) such person’s share of the  
 18 stock in such corporation which is  
 19 held by such plan but which is not al-  
 20 located under the plan to participants.

21 “(ii) PERSON’S SHARE OF  
 22 UNALLOCATED STOCK.—For purposes of  
 23 clause (i)(II), a person’s share of  
 24 unallocated S corporation stock held by  
 25 such plan is the amount of the unallocated

1 stock which would be allocated to such per-  
2 son if the unallocated stock were allocated  
3 to all participants in the same proportions  
4 as the most recent stock allocation under  
5 the plan.

6 “(D) MEMBER OF FAMILY.—For purposes  
7 of this paragraph, the term ‘member of the  
8 family’ means, with respect to any individual—

9 “(i) the spouse of the individual,

10 “(ii) an ancestor or lineal descendant  
11 of the individual or the individual’s spouse,

12 “(iii) a brother or sister of the indi-  
13 vidual or the individual’s spouse and any  
14 lineal descendant of the brother or sister,  
15 and

16 “(iv) the spouse of any individual de-  
17 scribed in clause (ii) or (iii).

18 A spouse of an individual who is legally sepa-  
19 rated from such individual under a decree of di-  
20 vorce or separate maintenance shall not be  
21 treated as such individual’s spouse for purposes  
22 of this subparagraph.

23 “(5) TREATMENT OF SYNTHETIC EQUITY.—For  
24 purposes of paragraphs (3) and (4), in the case of  
25 a person who owns synthetic equity in the S corpora-

1       tion, except to the extent provided in regulations, the  
2       shares of stock in such corporation on which such  
3       synthetic equity is based shall be treated as out-  
4       standing stock in such corporation and deemed-  
5       owned shares of such person if such treatment of  
6       synthetic equity of 1 or more such persons results  
7       in—

8               “(A) the treatment of any person as a dis-  
9               qualified person, or

10              “(B) the treatment of any year as a non-  
11              allocation year.

12       For purposes of this paragraph, synthetic equity  
13       shall be treated as owned by a person in the same  
14       manner as stock is treated as owned by a person  
15       under the rules of paragraphs (2) and (3) of section  
16       318(a). If, without regard to this paragraph, a per-  
17       son is treated as a disqualified person or a year is  
18       treated as a nonallocation year, this paragraph shall  
19       not be construed to result in the person or year not  
20       being so treated.

21              “(6) DEFINITIONS.—For purposes of this  
22              subsection—

23              “(A) EMPLOYEE STOCK OWNERSHIP  
24              PLAN.—The term ‘employee stock ownership

1           plan’ has the meaning given such term by sec-  
2           tion 4975(e)(7).

3           “(B) EMPLOYER SECURITIES.—The term  
4           ‘employer security’ has the meaning given such  
5           term by section 409(l).

6           “(C) SYNTHETIC EQUITY.—The term ‘syn-  
7           thetic equity’ means any stock option, warrant,  
8           restricted stock, deferred issuance stock right,  
9           or similar interest or right that gives the holder  
10          the right to acquire or receive stock of the S  
11          corporation in the future. Except to the extent  
12          provided in regulations, synthetic equity also in-  
13          cludes a stock appreciation right, phantom  
14          stock unit, or similar right to a future cash  
15          payment based on the value of such stock or  
16          appreciation in such value.

17          “(7) REGULATIONS.—The Secretary shall pre-  
18          scribe such regulations as may be necessary to carry  
19          out the purposes of this subsection.”.

20          (b) COORDINATION WITH SECTION 4975(e)(7).—The  
21          last sentence of section 4975(e)(7) (defining employee  
22          stock ownership plan) is amended by inserting “, section  
23          409(p),” after “409(n)”.

24          (c) EXCISE TAX.—

1           (1) APPLICATION OF TAX.—Subsection (a) of  
2           section 4979A (relating to tax on certain prohibited  
3           allocations of employer securities) is amended—

4                   (A) by striking “or” at the end of para-  
5           graph (1), and

6                   (B) by striking all that follows paragraph  
7           (2) and inserting the following:

8           “(3) there is any allocation of employer securi-  
9           ties which violates the provisions of section 409(p),  
10          or a nonallocation year described in subsection  
11          (e)(2)(C) with respect to an employee stock owner-  
12          ship plan, or

13                  “(4) any synthetic equity is owned by a dis-  
14          qualified person in any nonallocation year,  
15          there is hereby imposed a tax on such allocation or owner-  
16          ship equal to 50 percent of the amount involved.”.

17           (2) LIABILITY.—Section 4979A(c) (defining li-  
18          ability for tax) is amended to read as follows:

19          “(c) LIABILITY FOR TAX.—The tax imposed by this  
20          section shall be paid—

21                  “(1) in the case of an allocation referred to in  
22          paragraph (1) or (2) of subsection (a), by—

23                          “(A) the employer sponsoring such plan, or

24                          “(B) the eligible worker-owned cooperative,

1 which made the written statement described in sec-  
 2 tion 664(g)(1)(E) or in section 1042(b)(3)(B) (as  
 3 the case may be), and

4 “(2) in the case of an allocation or ownership  
 5 referred to in paragraph (3) or (4) of subsection (a),  
 6 by the S corporation the stock in which was so allo-  
 7 cated or owned.”.

8 (3) DEFINITIONS.—Section 4979A(e) (relating  
 9 to definitions) is amended to read as follows:

10 “(e) DEFINITIONS AND SPECIAL RULES.—For pur-  
 11 poses of this section—

12 “(1) DEFINITIONS.—Except as provided in  
 13 paragraph (2), terms used in this section have the  
 14 same respective meanings as when used in sections  
 15 409 and 4978.

16 “(2) SPECIAL RULES RELATING TO TAX IM-  
 17 POSED BY REASON OF PARAGRAPH (3) OR (4) OF  
 18 SUBSECTION (a).—

19 “(A) PROHIBITED ALLOCATIONS.—The  
 20 amount involved with respect to any tax im-  
 21 posed by reason of subsection (a)(3) is the  
 22 amount allocated to the account of any person  
 23 in violation of section 409(p)(1).

24 “(B) SYNTHETIC EQUITY.—The amount  
 25 involved with respect to any tax imposed by rea-

1 son of subsection (a)(4) is the value of the  
2 shares on which the synthetic equity is based.

3 “(C) SPECIAL RULE DURING FIRST NON-  
4 ALLOCATION YEAR.—For purposes of subpara-  
5 graph (A), the amount involved for the first  
6 nonallocation year of any employee stock owner-  
7 ship plan shall be determined by taking into ac-  
8 count the total value of all the deemed-owned  
9 shares of all disqualified persons with respect to  
10 such plan.

11 “(D) STATUTE OF LIMITATIONS.—The  
12 statutory period for the assessment of any tax  
13 imposed by this section by reason of paragraph  
14 (3) or (4) of subsection (a) shall not expire be-  
15 fore the date which is 3 years from the later  
16 of—

17 “(i) the allocation or ownership re-  
18 ferred to in such paragraph giving rise to  
19 such tax, or

20 “(ii) the date on which the Secretary  
21 is notified of such allocation or owner-  
22 ship.”.

23 (d) EFFECTIVE DATES.—

1           (1) IN GENERAL.—The amendments made by  
2       this section shall apply to plan years beginning after  
3       December 31, 2004.

4           (2) EXCEPTION FOR CERTAIN PLANS.—In the  
5       case of any—

6                   (A) employee stock ownership plan estab-  
7       lished after March 14, 2001, or

8                   (B) employee stock ownership plan estab-  
9       lished on or before such date if employer securi-  
10      ties held by the plan consist of stock in a cor-  
11      poration with respect to which an election under  
12      section 1362(a) of the Internal Revenue Code  
13      of 1986 is not in effect on such date,

14      the amendments made by this section shall apply to  
15      plan years ending after March 14, 2001.

## 16                   **TITLE VI—REDUCING** 17                   **REGULATORY BURDENS**

### 18      **SEC. 601. MODIFICATION OF TIMING OF PLAN VALUATIONS.**

19           (a) AMENDMENT OF INTERNAL REVENUE CODE.—  
20      Paragraph (9) of section 412(c)(9) (relating to annual  
21      valuation) is amended to read as follows:

22                   “(9) ANNUAL VALUATION.—

23                           “(A) IN GENERAL.—For purposes of this  
24                   section, a determination of experience gains and  
25                   losses and a valuation of the plan’s liability



1 shall be made not less frequently than once  
2 every year, except that such determination shall  
3 be made more frequently to the extent required  
4 in particular cases under regulations prescribed  
5 by the Secretary.

6 “(B) VALUATION DATE.—

7 “(i) CURRENT YEAR.—Except as pro-  
8 vided in clause (ii), the valuation referred  
9 to in subparagraph (A) shall be made as of  
10 a date within the plan year to which the  
11 valuation refers or within one month prior  
12 to the beginning of such year.

13 “(ii) ELECTION TO USE PRIOR YEAR  
14 VALUATION.—The valuation referred to in  
15 subparagraph (A) may be made as of a  
16 date within the plan year prior to the year  
17 to which the valuation refers if—

18 “(I) an election is in effect under  
19 this clause with respect to the plan,  
20 and

21 “(II) as of such date, the value  
22 of the assets of the plan are not less  
23 than 125 percent of the plan’s current  
24 liability (as defined in paragraph  
25 (7)(B)).

1                   “(iii)    ADJUSTMENTS.—Information  
 2                   under clause (ii) shall, in accordance with  
 3                   regulations, be actuarially adjusted to re-  
 4                   flect significant differences in participants.

5                   “(iv) ELECTION.—An election under  
 6                   clause (ii), once made, shall be irrevocable  
 7                   without the consent of the Secretary.”.

8           (b) AMENDMENT OF ERISA.—Paragraph (9) of sec-  
 9   tion 302(c) of the Employee Retirement Income Security  
 10 Act of 1974 (29 U.S.C. 1053(c)) is amended—

11                   (1) by inserting “(A)” after “(9)”; and

12                   (2) by adding at the end the following:

13           “(B)(i) Except as provided in clause (ii), the valu-  
 14 ation referred to in subparagraph (A) shall be made as  
 15 of a date within the plan year to which the valuation refers  
 16 or within one month prior to the beginning of such year.

17           “(ii) The valuation referred to in subparagraph (A)  
 18 may be made as of a date within the plan year prior to  
 19 the year to which the valuation refers if—

20                   “(I) an election is in effect under this clause  
 21 with respect to the plan; and

22                   “(II) as of such date, the value of the assets of  
 23 the plan are not less than 125 percent of the plan’s  
 24 current liability (as defined in paragraph (7)(B)).

1       “(iii) Information under clause (ii) shall, in accord-  
 2       ance with regulations, be actuarially adjusted to reflect  
 3       significant differences in participants.

4       “(iv) An election under clause (ii), once made, shall  
 5       be irrevocable without the consent of the Secretary of the  
 6       Treasury.”.

7       (c) EFFECTIVE DATE.—The amendments made by  
 8       this section shall apply to plan years beginning after De-  
 9       cember 31, 2001.

10   **SEC. 602. ESOP DIVIDENDS MAY BE REINVESTED WITHOUT**  
 11                   **LOSS OF DIVIDEND DEDUCTION.**

12       (a) IN GENERAL.—Section 404(k)(2)(A) (defining  
 13       applicable dividends) is amended by striking “or” at the  
 14       end of clause (ii), by redesignating clause (iii) as clause  
 15       (iv), and by inserting after clause (ii) the following new  
 16       clause:

17                               “(iii) is, at the election of such par-  
 18                               ticipants or their beneficiaries—

19                                       “(I) payable as provided in clause  
 20                               (i) or (ii), or

21                                       “(II) paid to the plan and rein-  
 22                               vested in qualifying employer securi-  
 23                               ties, or”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2000.

4 **SEC. 603. REPEAL OF TRANSITION RULE RELATING TO CER-**  
5 **TAIN HIGHLY COMPENSATED EMPLOYEES.**

6 (a) IN GENERAL.—Paragraph (4) of section 1114(c)  
7 of the Tax Reform Act of 1986 is hereby repealed.

8 (b) EFFECTIVE DATE.—The repeal made by sub-  
9 section (a) shall apply to plan years beginning after De-  
10 cember 31, 2001.

11 **SEC. 604. EMPLOYEES OF TAX-EXEMPT ENTITIES.**

12 (a) IN GENERAL.—The Secretary of the Treasury  
13 shall modify Treasury Regulations section 1.410(b)–6(g)  
14 to provide that employees of an organization described in  
15 section 403(b)(1)(A)(i) of the Internal Revenue Code of  
16 1986 who are eligible to make contributions under section  
17 403(b) of such Code pursuant to a salary reduction agree-  
18 ment may be treated as excludable with respect to a plan  
19 under section 401(k) or (m) of such Code that is provided  
20 under the same general arrangement as a plan under such  
21 section 401(k), if—

22 (1) no employee of an organization described in  
23 section 403(b)(1)(A)(i) of such Code is eligible to  
24 participate in such section 401(k) plan or section  
25 401(m) plan; and

1           (2) 95 percent of the employees who are not  
 2           employees of an organization described in section  
 3           403(b)(1)(A)(i) of such Code are eligible to partici-  
 4           pate in such plan under such section 401(k) or (m).

5           (b) EFFECTIVE DATE.—The modification required by  
 6           subsection (a) shall apply as of the same date set forth  
 7           in section 1426(b) of the Small Business Job Protection  
 8           Act of 1996.

9           **SEC. 605. CLARIFICATION OF TREATMENT OF EMPLOYER-**  
 10           **PROVIDED RETIREMENT ADVICE.**

11           (a) IN GENERAL.—Subsection (a) of section 132 (re-  
 12           lating to exclusion from gross income) is amended by  
 13           striking “or” at the end of paragraph (5), by striking the  
 14           period at the end of paragraph (6) and inserting “, or”,  
 15           and by adding at the end the following new paragraph:

16           “(7) qualified retirement planning services.”.

17           (b) QUALIFIED RETIREMENT PLANNING SERVICES  
 18           DEFINED.—Section 132 is amended by redesignating sub-  
 19           section (m) as subsection (n) and by inserting after sub-  
 20           section (l) the following:

21           “(m) QUALIFIED RETIREMENT PLANNING SERV-  
 22           ICES.—

23           “(1) IN GENERAL.—For purposes of this sec-  
 24           tion, the term ‘qualified retirement planning serv-  
 25           ices’ means any retirement planning advice or infor-

1       mation provided to an employee and his spouse by  
2       an employer maintaining a qualified employer plan.

3           “(2) NONDISCRIMINATION RULE.—Subsection  
4       (a)(7) shall apply in the case of highly compensated  
5       employees only if such services are available on sub-  
6       stantially the same terms to each member of the  
7       group of employees normally provided education and  
8       information regarding the employer’s qualified em-  
9       ployer plan.

10          “(3) QUALIFIED EMPLOYER PLAN.—For pur-  
11       poses of this subsection, the term ‘qualified employer  
12       plan’ means a plan, contract, pension, or account de-  
13       scribed in section 219(g)(5).”.

14       (c) EFFECTIVE DATE.—The amendments made by  
15       this section shall apply to years beginning after December  
16       31, 2001.

17       **SEC. 606. REPORTING SIMPLIFICATION.**

18       (a) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR  
19       OWNERS AND THEIR SPOUSES.—

20           (1) IN GENERAL.—The Secretary of the Treas-  
21       ury shall modify the requirements for filing annual  
22       returns with respect to one-participant retirement  
23       plans to ensure that such plans with assets of  
24       \$250,000 or less as of the close of the plan year  
25       need not file a return for that year.

1           (2) ONE-PARTICIPANT RETIREMENT PLAN DE-  
2       FINED.—For purposes of this subsection, the term  
3       “one-participant retirement plan” means a retire-  
4       ment plan that—

5           (A) on the first day of the plan year—

6               (i) covered only the employer (and the  
7               employer’s spouse) and the employer  
8               owned the entire business (whether or not  
9               incorporated); or

10           (ii) covered only one or more partners  
11           (and their spouses) in a business partner-  
12           ship (including partners in an S or C cor-  
13           poration);

14           (B) meets the minimum coverage require-  
15           ments of section 410(b) of the Internal Revenue  
16           Code of 1986 without being combined with any  
17           other plan of the business that covers the em-  
18           ployees of the business;

19           (C) does not provide benefits to anyone ex-  
20           cept the employer (and the employer’s spouse)  
21           or the partners (and their spouses);

22           (D) does not cover a business that is a  
23           member of an affiliated service group, a con-  
24           trolled group of corporations, or a group of  
25           businesses under common control; and

1 (E) does not cover a business that leases  
2 employees.

3 (3) OTHER DEFINITIONS.—Terms used in para-  
4 graph (2) which are also used in section 414 of the  
5 Internal Revenue Code of 1986 shall have the re-  
6 spective meanings given such terms by such section.

7 (b) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR  
8 PLANS WITH FEWER THAN 25 EMPLOYEES.—In the case  
9 of a retirement plan which covers less than 25 employees  
10 on the first day of the plan year and meets the require-  
11 ments described in subparagraphs (B), (D), and (E) of  
12 subsection (a)(2), the Secretary of the Treasury shall pro-  
13 vide for the filing of a simplified annual return that is  
14 substantially similar to the annual return required to be  
15 filed by a one-participant retirement plan.

16 (c) EFFECTIVE DATE.—The provisions of this section  
17 shall take effect on January 1, 2002.

18 **SEC. 607. IMPROVEMENT OF EMPLOYEE PLANS COMPLI-**  
19 **ANCE RESOLUTION SYSTEM.**

20 The Secretary of the Treasury shall continue to up-  
21 date and improve the Employee Plans Compliance Resolu-  
22 tion System (or any successor program) giving special at-  
23 tention to—



1           (1) increasing the awareness and knowledge of  
2           small employers concerning the availability and use  
3           of the program;

4           (2) taking into account special concerns and  
5           circumstances that small employers face with respect  
6           to compliance and correction of compliance failures;

7           (3) extending the duration of the self-correction  
8           period under the Administrative Policy Regarding  
9           Self-Correction for significant compliance failures;

10          (4) expanding the availability to correct insig-  
11          nificant compliance failures under the Administra-  
12          tive Policy Regarding Self-Correction during audit;  
13          and

14          (5) assuring that any tax, penalty, or sanction  
15          that is imposed by reason of a compliance failure is  
16          not excessive and bears a reasonable relationship to  
17          the nature, extent, and severity of the failure.

18 **SEC. 608. REPEAL OF THE MULTIPLE USE TEST.**

19          (a) IN GENERAL.—Paragraph (9) of section 401(m)  
20          is amended to read as follows:

21                 “(9) REGULATIONS.—The Secretary shall pre-  
22          scribe such regulations as may be necessary to carry  
23          out the purposes of this subsection and subsection  
24          (k), including regulations permitting appropriate ag-  
25          gregation of plans and contributions.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to years beginning after December  
3 31, 2001.

4 **SEC. 609. FLEXIBILITY IN NONDISCRIMINATION, COV-**  
5 **ERAGE, AND LINE OF BUSINESS RULES.**

6 (a) NONDISCRIMINATION.—

7 (1) IN GENERAL.—The Secretary of the Treas-  
8 ury shall, by regulation, provide that a plan shall be  
9 deemed to satisfy the requirements of section  
10 401(a)(4) of the Internal Revenue Code of 1986 if  
11 such plan satisfies the facts and circumstances test  
12 under section 401(a)(4) of such Code, as in effect  
13 before January 1, 1994, but only if—

14 (A) the plan satisfies conditions prescribed  
15 by the Secretary to appropriately limit the  
16 availability of such test; and

17 (B) the plan is submitted to the Secretary  
18 for a determination of whether it satisfies such  
19 test.

20 Subparagraph (B) shall only apply to the extent pro-  
21 vided by the Secretary.

22 (2) EFFECTIVE DATES.—

23 (A) REGULATIONS.—The regulation re-  
24 quired by paragraph (1) shall apply to years be-  
25 ginning after December 31, 2003.

1 (B) CONDITIONS OF AVAILABILITY.—Any  
2 condition of availability prescribed by the Sec-  
3 retary under paragraph (1)(A) shall not apply  
4 before the first year beginning not less than  
5 120 days after the date on which such condition  
6 is prescribed.

7 (b) COVERAGE TEST.—

8 (1) IN GENERAL.—Section 410(b)(1) (relating  
9 to minimum coverage requirements) is amended by  
10 adding at the end the following:

11 “(D) In the case that the plan fails to  
12 meet the requirements of subparagraphs (A),  
13 (B) and (C), the plan—

14 “(i) satisfies subparagraph (B), as in  
15 effect immediately before the enactment of  
16 the Tax Reform Act of 1986,

17 “(ii) is submitted to the Secretary for  
18 a determination of whether it satisfies the  
19 requirement described in clause (i), and

20 “(iii) satisfies conditions prescribed by  
21 the Secretary by regulation that appro-  
22 priately limit the availability of this sub-  
23 paragraph.

24 Clause (ii) shall apply only to the extent pro-  
25 vided by the Secretary.”.

1           (2) EFFECTIVE DATES.—

2                   (A) IN GENERAL.—The amendment made  
3           by paragraph (1) shall apply to years beginning  
4           after December 31, 2003.

5                   (B) CONDITIONS OF AVAILABILITY.—Any  
6           condition of availability prescribed by the Sec-  
7           retary under regulations prescribed by the Sec-  
8           retary under section 410(b)(1)(D) of the Inter-  
9           nal Revenue Code of 1986 shall not apply be-  
10          fore the first year beginning not less than 120  
11          days after the date on which such condition is  
12          prescribed.

13          (c) LINE OF BUSINESS RULES.—The Secretary of  
14   the Treasury shall, on or before December 31, 2003, mod-  
15   ify the existing regulations issued under section 414(r) of  
16   the Internal Revenue Code of 1986 in order to expand  
17   (to the extent that the Secretary determines appropriate)  
18   the ability of a pension plan to demonstrate compliance  
19   with the line of business requirements based upon the  
20   facts and circumstances surrounding the design and oper-  
21   ation of the plan, even though the plan is unable to satisfy  
22   the mechanical tests currently used to determine compli-  
23   ance.

1 **SEC. 610. EXTENSION TO ALL GOVERNMENTAL PLANS OF**  
2 **MORATORIUM ON APPLICATION OF CERTAIN**  
3 **NONDISCRIMINATION RULES APPLICABLE TO**  
4 **STATE AND LOCAL PLANS.**

5 (a) IN GENERAL.—

6 (1) Subparagraph (G) of section 401(a)(5) and  
7 subparagraph (H) of section 401(a)(26) are each  
8 amended by striking “section 414(d))” and all that  
9 follows and inserting “section 414(d)).”.

10 (2) Subparagraph (G) of section 401(k)(3) and  
11 paragraph (2) of section 1505(d) of the Taxpayer  
12 Relief Act of 1997 are each amended by striking  
13 “maintained by a State or local government or polit-  
14 ical subdivision thereof (or agency or instrumentality  
15 thereof)”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) The heading for subparagraph (G) of sec-  
18 tion 401(a)(5) is amended to read as follows: “GOV-  
19 ERNMENTAL PLANS”.

20 (2) The heading for subparagraph (H) of sec-  
21 tion 401(a)(26) is amended to read as follows: “EX-  
22 CEPTION FOR GOVERNMENTAL PLANS”.

23 (3) Subparagraph (G) of section 401(k)(3) is  
24 amended by inserting “GOVERNMENTAL PLANS.—”  
25 after “(G)”.

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to years beginning after December  
3 31, 2001.

4       **SEC. 611. NOTICE AND CONSENT PERIOD REGARDING DIS-**  
5                               **TRIBUTIONS.**

6       (a) EXPANSION OF PERIOD.—

7               (1) AMENDMENT OF INTERNAL REVENUE  
8 CODE.—

9                       (A) IN GENERAL.—Subparagraph (A) of  
10 section 417(a)(6) is amended by striking “90-  
11 day” and inserting “180-day”.

12                      (B) MODIFICATION OF REGULATIONS.—

13       The Secretary of the Treasury shall modify the  
14 regulations under sections 402(f), 411(a)(11),  
15 and 417 of the Internal Revenue Code of 1986  
16 to substitute “180 days” for “90 days” each  
17 place it appears in Treasury Regulations sec-  
18 tions 1.402(f)–1, 1.411(a)–11(c), and 1.417(e)–  
19 1(b).

20               (2) AMENDMENT OF ERISA.—Section  
21 205(c)(7)(A) of the Employee Retirement Income  
22 Security Act of 1974 (29 U.S.C. 1055(c)(7)(A)) is  
23 amended by striking “90-day” and inserting “180-  
24 day”.

1           (3) EFFECTIVE DATE.—The amendments made  
 2       by paragraph (1)(A) and (2) and the modifications  
 3       required by paragraph (1)(B) shall apply to years  
 4       beginning after December 31, 2001.

5       (b) CONSENT REGULATION INAPPLICABLE TO CER-  
 6 TAIN DISTRIBUTIONS.—

7           (1) IN GENERAL.—The Secretary of the Treas-  
 8       ury shall modify the regulations under section  
 9       411(a)(11) of the Internal Revenue Code of 1986 to  
 10      provide that the description of a participant's right,  
 11      if any, to defer receipt of a distribution shall also de-  
 12      scribe the consequences of failing to defer such re-  
 13      ceipt.

14          (2) EFFECTIVE DATE.—The modifications re-  
 15      quired by paragraph (1) shall apply to years begin-  
 16      ning after December 31, 2001.

17 **SEC. 612. ANNUAL REPORT DISSEMINATION.**

18       (a) REPORT AVAILABLE THROUGH ELECTRONIC  
 19 MEANS.—Section 104(b)(3) of the Employee Retirement  
 20 Income Security Act of 1974 (29 U.S.C. 1024(b)(3)) is  
 21 amended by adding at the end the following new sentence:  
 22 “The requirement to furnish information under the pre-  
 23 vious sentence shall be satisfied if the administrator makes  
 24 such information reasonably available through electronic  
 25 means or other new technology.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to reports for years beginning after  
3 December 31, 2000.

4 **SEC. 623. TECHNICAL CORRECTIONS TO SAVER ACT.**

5 Section 517 of the Employee Retirement Income Se-  
6 curity Act of 1974 (29 U.S.C. 1147) is amended—

7 (1) in subsection (a), by striking “2001 and  
8 2005 on or after September 1 of each year involved”  
9 and inserting “2001, 2005, and 2009 in the month  
10 of September of each year involved”;

11 (2) in subsection (b), by adding at the end the  
12 following new sentence: “To effectuate the purposes  
13 of this paragraph, the Secretary may enter into a co-  
14 operative agreement, pursuant to the Federal Grant  
15 and Cooperative Agreement Act of 1977 (31 U.S.C.  
16 6301 et seq.), with the American Savings Education  
17 Council.”;

18 (3) in subsection (e)(2)—

19 (A) by striking “Committee on Labor and  
20 Human Resources” in subparagraph (D) and  
21 inserting “Committee on Health, Education,  
22 Labor, and Pensions”;

23 (B) by striking subparagraph (F) and in-  
24 serting the following:



1           “(F) the Chairman and Ranking Member  
2           of the Subcommittee on Labor, Health and  
3           Human Services, and Education of the Com-  
4           mittee on Appropriations of the House of Rep-  
5           resentatives and the Chairman and Ranking  
6           Member of the Subcommittee on Labor, Health  
7           and Human Services, and Education of the  
8           Committee on Appropriations of the Senate;”;

9           (C) by redesignating subparagraph (G) as  
10          subparagraph (J); and

11          (D) by inserting after subparagraph (F)  
12          the following new subparagraphs:

13          “(G) the Chairman and Ranking Member  
14          of the Committee on Finance of the Senate;

15          “(H) the Chairman and Ranking Member  
16          of the Committee on Ways and Means of the  
17          House of Representatives;

18          “(I) the Chairman and Ranking Member  
19          of the Subcommittee on Employer-Employee  
20          Relations of the Committee on Education and  
21          the Workforce of the House of Representatives;  
22          and”;

23          (4) in subsection (e)(3)(A)—

24          (A) by striking “There shall be no more  
25          than 200 additional participants.” and inserting

1 “The participants in the National Summit shall  
2 also include additional participants appointed  
3 under this subparagraph.”;

4 (B) by striking “one-half shall be ap-  
5 pointed by the President,” in clause (i) and in-  
6 serting “not more than 100 participants shall  
7 be appointed under this clause by the Presi-  
8 dent,”, and by striking “and” at the end of  
9 clause (i);

10 (C) by striking “one-half shall be ap-  
11 pointed by the elected leaders of Congress” in  
12 clause (ii) and inserting “not more than 100  
13 participants shall be appointed under this  
14 clause by the elected leaders of Congress”, and  
15 by striking the period at the end of clause (ii)  
16 and inserting “; and”;

17 (D) by adding at the end the following new  
18 clause:

19 “(iii) The President, in consultation  
20 with the elected leaders of Congress re-  
21 ferred to in subsection (a), may appoint  
22 under this clause additional participants to  
23 the National Summit. The number of such  
24 additional participants appointed under  
25 this clause may not exceed the lesser of 3

1           percent of the total number of all addi-  
2           tional participants appointed under this  
3           paragraph, or 10. Such additional partici-  
4           pants shall be appointed from persons  
5           nominated by the organization referred to  
6           in subsection (b)(2) which is made up of  
7           private sector businesses and associations  
8           partnered with Government entities to pro-  
9           mote long term financial security in retire-  
10          ment through savings and with which the  
11          Secretary is required thereunder to consult  
12          and cooperate and shall not be Federal,  
13          State, or local government employees.”;

14           (5) in subsection (e)(3)(B), by striking “Janu-  
15          ary 31, 1998” in subparagraph (B) and inserting  
16          “May 1, 2001, May 1, 2005, and May 1, 2009, for  
17          each of the subsequent summits, respectively”;

18           (6) in subsection (f)(1)(C), by inserting “, no  
19          later than 90 days prior to the date of the com-  
20          mencement of the National Summit,” after “com-  
21          ment” in paragraph (1)(C);

22           (7) in subsection (g), by inserting “, in con-  
23          sultation with the congressional leaders specified in  
24          subsection (e)(2),” after “report”;

25           (8) in subsection (i)—

(A) by striking “beginning on or after October 1, 1997” in paragraph (1) and inserting “2001, 2005, and 2009”; and

(B) by adding at the end the following new paragraph:

“(3) RECEPTION AND REPRESENTATION AUTHORITY.—The Secretary is hereby granted reception and representation authority limited specifically to the events at the National Summit. The Secretary shall use any private contributions accepted in connection with the National Summit prior to using funds appropriated for purposes of the National Summit pursuant to this paragraph.”; and

(9) in subsection (k)—

(A) by striking “shall enter into a contract on a sole-source basis” and inserting “may enter into a contract on a sole-source basis”; and

(B) by striking “fiscal year 1998” and inserting “fiscal years 2001, 2005, and 2009”.

## **TITLE VII—OTHER ERISA PROVISIONS**

### **SEC. 701. MISSING PARTICIPANTS.**

(a) IN GENERAL.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350)

1 is amended by redesignating subsection (c) as subsection  
2 (e) and by inserting after subsection (b) the following new  
3 subsections:

4 “(c) MULTIEMPLOYER PLANS.—The corporation  
5 shall prescribe rules similar to the rules in subsection (a)  
6 for multiemployer plans covered by this title that termi-  
7 nate under section 4041A.

8 “(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

9 “(1) TRANSFER TO CORPORATION.—The plan  
10 administrator of a plan described in paragraph (4)  
11 may elect to transfer a missing participant’s benefits  
12 to the corporation upon termination of the plan.

13 “(2) INFORMATION TO THE CORPORATION.—To  
14 the extent provided in regulations, the plan adminis-  
15 trator of a plan described in paragraph (4) shall,  
16 upon termination of the plan, provide the corpora-  
17 tion information with respect to benefits of a miss-  
18 ing participant if the plan transfers such benefits—

19 “(A) to the corporation, or

20 “(B) to an entity other than the corpora-  
21 tion or a plan described in paragraph (4)(B)(ii).

22 “(3) PAYMENT BY THE CORPORATION.—If ben-  
23 efits of a missing participant were transferred to the  
24 corporation under paragraph (1), the corporation  
25 shall, upon location of the participant or beneficiary,

1 pay to the participant or beneficiary the amount  
2 transferred (or the appropriate survivor benefit)  
3 either—

4 “(A) in a single sum (plus interest), or

5 “(B) in such other form as is specified in  
6 regulations of the corporation.

7 “(4) PLANS DESCRIBED.—A plan is described  
8 in this paragraph if—

9 “(A) the plan is a pension plan (within the  
10 meaning of section 3(2))—

11 “(i) to which the provisions of this  
12 section do not apply (without regard to  
13 this subsection), and

14 “(ii) which is not a plan described in  
15 paragraphs (2) through (11) of section  
16 4021(b), and

17 “(B) at the time the assets are to be dis-  
18 tributed upon termination, the plan—

19 “(i) has missing participants, and

20 “(ii) has not provided for the transfer  
21 of assets to pay the benefits of all missing  
22 participants to another pension plan (with-  
23 in the meaning of section 3(2)).

1 “(5) CERTAIN PROVISIONS NOT TO APPLY.—  
 2 Subsections (a)(1) and (a)(3) shall not apply to a  
 3 plan described in paragraph (4).”.

4 (b) EFFECTIVE DATE.—The amendment made by  
 5 this section shall apply to distributions made after final  
 6 regulations implementing subsections (c) and (d) of sec-  
 7 tion 4050 of the Employee Retirement Income Security  
 8 Act of 1974 (as added by subsection (a)), respectively, are  
 9 prescribed.

10 **SEC. 702. REDUCED PBGC PREMIUM FOR NEW PLANS OF**  
 11 **SMALL EMPLOYERS.**

12 (a) IN GENERAL.—Subparagraph (A) of section  
 13 4006(a)(3) of the Employee Retirement Income Security  
 14 Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended—

15 (1) in clause (i), by inserting “other than a new  
 16 single-employer plan (as defined in subparagraph  
 17 (F)) maintained by a small employer (as so de-  
 18 fined),” after “single-employer plan,”,

19 (2) in clause (iii), by striking the period at the  
 20 end and inserting “, and”, and

21 (3) by adding at the end the following new  
 22 clause:

23 “(iv) in the case of a new single-employer plan  
 24 (as defined in subparagraph (F)) maintained by a  
 25 small employer (as so defined) for the plan year, \$5

1       for each individual who is a participant in such plan  
2       during the plan year.”.

3       (b)   DEFINITION OF NEW SINGLE-EMPLOYER  
4   PLAN.—Section 4006(a)(3) of the Employee Retirement  
5   Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is  
6   amended by adding at the end the following new subpara-  
7   graph:

8       “(F)(i) For purposes of this paragraph, a single-em-  
9   ployer plan maintained by a contributing sponsor shall be  
10   treated as a new single-employer plan for each of its first  
11   5 plan years if, during the 36-month period ending on the  
12   date of the adoption of such plan, the sponsor or any  
13   member of such sponsor’s controlled group (or any prede-  
14   cessor of either) did not establish or maintain a plan to  
15   which this title applies with respect to which benefits were  
16   accrued for substantially the same employees as are in the  
17   new single-employer plan.

18       “(ii)(I) For purposes of this paragraph, the term  
19   ‘small employer’ means an employer which on the first day  
20   of any plan year has, in aggregation with all members of  
21   the controlled group of such employer, 100 or fewer em-  
22   ployees.

23       “(II) In the case of a plan maintained by two or more  
24   contributing sponsors that are not part of the same con-  
25   trolled group, the employees of all contributing sponsors



1 and controlled groups of such sponsors shall be aggregated  
 2 for purposes of determining whether any contributing  
 3 sponsor is a small employer.”.

4 (c) EFFECTIVE DATE.—The amendments made by  
 5 this section shall apply to plans established after Decem-  
 6 ber 31, 2001.

7 **SEC. 703. REDUCTION OF ADDITIONAL PBGC PREMIUM FOR**  
 8 **NEW AND SMALL PLANS.**

9 (a) NEW PLANS.—Subparagraph (E) of section  
 10 4006(a)(3) of the Employee Retirement Income Security  
 11 Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by  
 12 adding at the end the following new clause:

13 “(v) In the case of a new defined benefit plan, the  
 14 amount determined under clause (ii) for any plan year  
 15 shall be an amount equal to the product of the amount  
 16 determined under clause (ii) and the applicable percent-  
 17 age. For purposes of this clause, the term ‘applicable per-  
 18 centage’ means—

19 “(I) 0 percent, for the first plan year.

20 “(II) 20 percent, for the second plan year.

21 “(III) 40 percent, for the third plan year.

22 “(IV) 60 percent, for the fourth plan year.

23 “(V) 80 percent, for the fifth plan year.

24 For purposes of this clause, a defined benefit plan (as de-  
 25 fined in section 3(35)) maintained by a contributing spon-

1 sor shall be treated as a new defined benefit plan for each  
 2 of its first 5 plan years if, during the 36-month period  
 3 ending on the date of the adoption of the plan, the sponsor  
 4 and each member of any controlled group including the  
 5 sponsor (or any predecessor of either) did not establish  
 6 or maintain a plan to which this title applies with respect  
 7 to which benefits were accrued for substantially the same  
 8 employees as are in the new plan.”.

9 (b) SMALL PLANS.—Paragraph (3) of section  
 10 4006(a) of the Employee Retirement Income Security Act  
 11 of 1974 (29 U.S.C. 1306(a)), as amended by section  
 12 702(b), is amended—

13 (1) by striking “The” in subparagraph (E)(i)  
 14 and inserting “Except as provided in subparagraph  
 15 (G), the”, and

16 (2) by inserting after subparagraph (F) the fol-  
 17 lowing new subparagraph:

18 “(G)(i) In the case of an employer who has 25 or  
 19 fewer employees on the first day of the plan year, the addi-  
 20 tional premium determined under subparagraph (E) for  
 21 each participant shall not exceed \$5 multiplied by the  
 22 number of participants in the plan as of the close of the  
 23 preceding plan year.

24 “(ii) For purposes of clause (i), whether an employer  
 25 has 25 or fewer employees on the first day of the plan

1 year is determined taking into consideration all of the em-  
 2 ployees of all members of the contributing sponsor's con-  
 3 trolled group. In the case of a plan maintained by two  
 4 or more contributing sponsors, the employees of all con-  
 5 tributing sponsors and their controlled groups shall be ag-  
 6 gregated for purposes of determining whether the 25-or-  
 7 fewer-employees limitation has been satisfied.”.

8 (c) EFFECTIVE DATES.—

9 (1) SUBSECTION (a).—The amendments made  
 10 by subsection (a) shall apply to plans established  
 11 after December 31, 2001.

12 (2) SUBSECTION (b).—The amendments made  
 13 by subsection (b) shall apply to plan years beginning  
 14 after December 31, 2001.

15 **SEC. 704. AUTHORIZATION FOR PBGC TO PAY INTEREST ON**  
 16 **PREMIUM OVERPAYMENT REFUNDS.**

17 (a) IN GENERAL.—Section 4007(b) of the Employ-  
 18 ment Retirement Income Security Act of 1974 (29 U.S.C.  
 19 1307(b)) is amended—

20 (1) by striking “(b)” and inserting “(b)(1)”,  
 21 and

22 (2) by inserting at the end the following new  
 23 paragraph:

24 “(2) The corporation is authorized to pay, subject to  
 25 regulations prescribed by the corporation, interest on the

1 amount of any overpayment of premium refunded to a des-  
 2 ignated payor. Interest under this paragraph shall be cal-  
 3 culated at the same rate and in the same manner as inter-  
 4 est is calculated for underpayments under paragraph  
 5 (1).”.

6 (b) EFFECTIVE DATE.—The amendment made by  
 7 subsection (a) shall apply to interest accruing for periods  
 8 beginning not earlier than the date of the enactment of  
 9 this Act.

10 **SEC. 705. SUBSTANTIAL OWNER BENEFITS IN TERMINATED**  
 11 **PLANS.**

12 (a) MODIFICATION OF PHASE-IN OF GUARANTEE.—  
 13 Section 4022(b)(5) of the Employee Retirement Income  
 14 Security Act of 1974 (29 U.S.C. 1322(b)(5)) is amended  
 15 to read as follows:

16 “(5)(A) For purposes of this paragraph, the term  
 17 ‘majority owner’ means an individual who, at any time  
 18 during the 60-month period ending on the date the deter-  
 19 mination is being made—

20 “(i) owns the entire interest in an unincor-  
 21 porated trade or business,

22 “(ii) in the case of a partnership, is a partner  
 23 who owns, directly or indirectly, 50 percent or more  
 24 of either the capital interest or the profits interest  
 25 in such partnership, or

1           “(iii) in the case of a corporation, owns, directly  
 2           or indirectly, 50 percent or more in value of either  
 3           the voting stock of that corporation or all the stock  
 4           of that corporation.

5 For purposes of clause (iii), the constructive ownership  
 6 rules of section 1563(e) of the Internal Revenue Code of  
 7 1986 shall apply (determined without regard to section  
 8 1563(e)(3)(C)).

9           “(B) In the case of a participant who is a majority  
 10 owner, the amount of benefits guaranteed under this sec-  
 11 tion shall equal the product of—

12           “(i) a fraction (not to exceed 1) the numerator  
 13           of which is the number of years from the later of the  
 14           effective date or the adoption date of the plan to the  
 15           termination date, and the denominator of which is  
 16           10, and

17           “(ii) the amount of benefits that would be guar-  
 18           anteed under this section if the participant were not  
 19           a majority owner.”.

20 (b) MODIFICATION OF ALLOCATION OF ASSETS.—

21           (1) Section 4044(a)(4)(B) of the Employee Re-  
 22           tirement Income Security Act of 1974 (29 U.S.C.  
 23           1344(a)(4)(B)) is amended by striking “section  
 24           4022(b)(5)” and inserting “section 4022(b)(5)(B)”.

1           (2) Section 4044(b) of such Act (29 U.S.C.  
2   1344(b)) is amended—

3           (A) by striking “(5)” in paragraph (2) and  
4           inserting “(4), (5),” and

5           (B) by redesignating paragraphs (3)  
6           through (6) as paragraphs (4) through (7), re-  
7           spectively, and by inserting after paragraph (2)  
8           the following new paragraph:

9           “(3) If assets available for allocation under  
10          paragraph (4) of subsection (a) are insufficient to  
11          satisfy in full the benefits of all individuals who are  
12          described in that paragraph, the assets shall be allo-  
13          cated first to benefits described in subparagraph (A)  
14          of that paragraph. Any remaining assets shall then  
15          be allocated to benefits described in subparagraph  
16          (B) of that paragraph. If assets allocated to such  
17          subparagraph (B) are insufficient to satisfy in full  
18          the benefits described in that subparagraph, the as-  
19          sets shall be allocated pro rata among individuals on  
20          the basis of the present value (as of the termination  
21          date) of their respective benefits described in that  
22          subparagraph.”.

23          (c) CONFORMING AMENDMENTS.—

1           (1) Section 4021 of the Employee Retirement  
2       Income Security Act of 1974 (29 U.S.C. 1321) is  
3       amended—

4                   (A) in subsection (b)(9), by striking “as  
5       defined in section 4022(b)(6)”, and

6                   (B) by adding at the end the following new  
7       subsection:

8       “(d) For purposes of subsection (b)(9), the term ‘sub-  
9       stantial owner’ means an individual who, at any time dur-  
10      ing the 60-month period ending on the date the determina-  
11      tion is being made—

12                   “(1) owns the entire interest in an unincor-  
13      porated trade or business,

14                   “(2) in the case of a partnership, is a partner  
15      who owns, directly or indirectly, more than 10 per-  
16      cent of either the capital interest or the profits inter-  
17      est in such partnership, or

18                   “(3) in the case of a corporation, owns, directly  
19      or indirectly, more than 10 percent in value of either  
20      the voting stock of that corporation or all the stock  
21      of that corporation.

22      For purposes of paragraph (3), the constructive ownership  
23      rules of section 1563(e) of the Internal Revenue Code of  
24      1986 shall apply (determined without regard to section  
25      1563(e)(3)(C)).”.

1       (2) Section 4043(c)(7) of such Act (29 U.S.C.  
2 1343(c)(7)) is amended by striking “section 4022(b)(6)”  
3 and inserting “section 4021(d)”.

4       (d) EFFECTIVE DATES.—

5           (1) IN GENERAL.—Except as provided in para-  
6 graph (2), the amendments made by this section  
7 shall apply to plan terminations—

8           (A) under section 4041(c) of the Employee  
9 Retirement Income Security Act of 1974 (29  
10 U.S.C. 1341(c)) with respect to which notices  
11 of intent to terminate are provided under sec-  
12 tion 4041(a)(2) of such Act (29 U.S.C.  
13 1341(a)(2)) after December 31, 2001, and

14           (B) under section 4042 of such Act (29  
15 U.S.C. 1342) with respect to which proceedings  
16 are instituted by the corporation after such  
17 date.

18       (2) CONFORMING AMENDMENTS.—The amend-  
19 ments made by subsection (c) shall take effect on  
20 January 1, 2002.

21 **SEC. 706. CIVIL PENALTIES FOR BREACH OF FIDUCIARY**  
22 **RESPONSIBILITY.**

23       (a) IMPOSITION AND AMOUNT OF PENALTY MADE  
24 DISCRETIONARY.—Section 502(l)(1) of the Employee Re-



1 Retirement Income Security Act of 1974 (29 U.S.C.  
2 1132(l)(1)) is amended—

3 (1) by striking “shall” and inserting “may”,  
4 and

5 (2) by striking “equal to” and inserting “not  
6 greater than”.

7 (b) APPLICABLE RECOVERY AMOUNT.—Section  
8 502(l)(2) of such Act (29 U.S.C. 1132(l)(2)) is amended  
9 to read as follows:

10 “(2) For purposes of paragraph (1), the term ‘appli-  
11 cable recovery amount’ means any amount which is recov-  
12 ered from any fiduciary or other person (or from any other  
13 person on behalf of any such fiduciary or other person)  
14 with respect to a breach or violation described in para-  
15 graph (1) on or after the 30th day following receipt by  
16 such fiduciary or other person of written notice from the  
17 Secretary of the violation, whether paid voluntarily or by  
18 order of a court in a judicial proceeding instituted by the  
19 Secretary under subsection (a)(2) or (a)(5). The Secretary  
20 may, in the Secretary’s sole discretion, extend the 30-day  
21 period described in the preceding sentence.”.

22 (c) OTHER RULES.—Section 502(l) of the Employee  
23 Retirement Income Security Act of 1974 (29 U.S.C.  
24 1132(l)) is amended by adding at the end the following  
25 new paragraph:

1       “(5) A person shall be jointly and severally liable for  
2 the penalty described in paragraph (1) to the same extent  
3 that such person is jointly and severally liable for the ap-  
4 plicable recovery amount on which the penalty is based.

5       “(6) No penalty shall be assessed under this sub-  
6 section unless the person against whom the penalty is as-  
7 sessed is given notice and opportunity for a hearing with  
8 respect to the violation and applicable recovery amount.”.

9       (d) EFFECTIVE DATES.—

10           (1) IN GENERAL.—The amendments made by  
11 this section shall apply to any breach of fiduciary re-  
12 sponsibility or other violation of part 4 of subtitle B  
13 of title I of the Employee Retirement Income Secu-  
14 rity Act of 1974 occurring on or after the date of  
15 enactment of this Act.

16           (2) TRANSITION RULE.—In applying the  
17 amendment made by subsection (b) (relating to ap-  
18 plicable recovery amount), a breach or other viola-  
19 tion occurring before the date of enactment of this  
20 Act which continues after the 180th day after such  
21 date (and which may have been discontinued at any  
22 time during its existence) shall be treated as having  
23 occurred after such date of enactment.

1 **SEC. 707. BENEFIT SUSPENSION NOTICE.**

2 (a) MODIFICATION OF REGULATION.—The Secretary  
3 of Labor shall modify the regulation under section  
4 203(a)(3)(B) of the Employee Retirement Income Secu-  
5 rity Act of 1974 (29 U.S.C. 1053(a)(3)(B)) to provide  
6 that the notification required by such regulation—

7 (1) in the case of an employee who returns to  
8 work for a former employer after commencement of  
9 payment of benefits under the plan shall—

10 (A) be made during the first calendar  
11 month or payroll period in which the plan with-  
12 holds payments, and

13 (B) if a reduced rate of future benefit ac-  
14 cruals will apply to the returning employee (as  
15 of the first date of participation in the plan by  
16 the employee after returning to work), include  
17 a statement that the rate of future benefit ac-  
18 cruals will be reduced, and

19 (2) in the case of any employee who is not de-  
20 scribed in paragraph (1)—

21 (A) may be included in the summary plan  
22 description for the plan furnished in accordance  
23 with section 104(b) of such Act (29 U.S.C.  
24 1024(b)), rather than in a separate notice, and

25 (B) need not include a copy of the relevant  
26 plan provisions.

1 (b) EFFECTIVE DATE.—The modification made  
2 under this section shall apply to plan years beginning after  
3 December 31, 2001.

## 4 **TITLE VIII—PLAN AMENDMENTS**

### 5 **SEC. 801. PROVISIONS RELATING TO PLAN AMENDMENTS.**

6 (a) IN GENERAL.—If this section applies to any plan  
7 or contract amendment—

8 (1) such plan or contract shall be treated as  
9 being operated in accordance with the terms of the  
10 plan during the period described in subsection  
11 (b)(2)(A); and

12 (2) except as provided by the Secretary of the  
13 Treasury, such plan shall not fail to meet the re-  
14 quirements of section 411(d)(6) of the Internal Rev-  
15 enue Code of 1986 or section 204(g) of the Em-  
16 ployee Retirement Income Security Act of 1974 by  
17 reason of such amendment.

18 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

19 (1) IN GENERAL.—This section shall apply to  
20 any amendment to any plan or annuity contract  
21 which is made—

22 (A) pursuant to any amendment made by  
23 this Act, or pursuant to any regulation issued  
24 under this Act; and

1 (B) on or before the last day of the first  
2 plan year beginning on or after January 1,  
3 2004.

4 In the case of a governmental plan (as defined in  
5 section 414(d) of the Internal Revenue Code of  
6 1986), this paragraph shall be applied by sub-  
7 stituting “2006” for “2004”.

8 (2) CONDITIONS.—This section shall not apply  
9 to any amendment unless—

10 (A) during the period—

11 (i) beginning on the date the legisla-  
12 tive or regulatory amendment described in  
13 paragraph (1)(A) takes effect (or in the  
14 case of a plan or contract amendment not  
15 required by such legislative or regulatory  
16 amendment, the effective date specified by  
17 the plan); and

18 (ii) ending on the date described in  
19 paragraph (1)(B) (or, if earlier, the date  
20 the plan or contract amendment is adopt-  
21 ed),

22 the plan or contract is operated as if such plan  
23 or contract amendment were in effect; and

- 1 (B) such plan or contract amendment ap-
- 2 plies retroactively for such period.

